

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

**FORM 8-K**

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

Date of Report (Date of Earliest Event Reported): **June 27, 2017**

**Safety, Income and Growth, Inc.**  
(Exact Name of Registrant as Specified in its Charter)

**Maryland**  
(State or Other Jurisdiction  
of Incorporation)

**001-38122**  
(Commission  
File Number)

**81-4253271**  
(IRS Employer  
Identification No.)

**1114 Avenue of the Americas, New York, New York 10036**  
(Address of Principal Executive Offices) (Zip Code)

**(212) 930-9400**  
(Registrant's Telephone Number, Including Area Code)

**Not Applicable**  
(Former Name or Former Address, if Changed Since Last Report)

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

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

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

Emerging growth company

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

**Item 1.01 Entry into a Material Definitive Agreement.**

*Agreements Entered Into in Connection with the Initial Public Offering*

In connection with the initial public offering (the "Offering") by Safety, Income and Growth, Inc. (the "Company") of its common stock, \$0.01 par value per share (the "Common Stock"), described in the Company's prospectus dated June 21, 2017 (the "Prospectus"), filed with the Securities and Exchange Commission on June 23, 2017 pursuant to Rule 424(b) under the Securities Act of 1933, as amended (the "Securities Act"), which is deemed to be part of the Company's Registration Statement on Form S-11 (File No. 333-217224) (as amended, the "Registration Statement"), the following agreements were entered into on the dates indicated below:

- 1) the Underwriting Agreement, dated as of June 21, 2017 (the “Underwriting Agreement”), among the Company, Safety Income and Growth Operating Partnership LP (the “Operating Partnership”) and SFTY Manager LLC (the “Manager”), on the one hand, and Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC and Barclays Capital Inc., as representatives of the several underwriters named therein, on the other hand;
- 2) the First Amended and Restated Limited Partnership Agreement of the Operating Partnership (the “LPA”), dated as of June 27, 2017, among the Company and SIGOP GenPar LLC (the “General Partner”);
- 3) the Management Agreement (the “Management Agreement”), dated as of June 27, 2017, among the Company, the Operating Partnership and the Manager;
- 4) the Exclusivity and Expense Reimbursement Agreement (the “Exclusivity Agreement”), dated as of June 27, 2017, between the Company and iStar Inc. (“iStar”);
- 5) the Registration Rights Agreement (the “Registration Rights Agreement”), dated as of June 27, 2017, between the Company and iStar;
- 6) the Initial Portfolio Agreement (the “Initial Portfolio Agreement”), dated as of June 27, 2017, among the Company, the Operating Partnership and iStar;
- 7) the Option Purchase Agreement (the “Option GNL Agreement”), dated as of June 27, 2017, between the Operating Partnership and iStar;
- 8) the Assignment, Assumption and Transfer Agreement relating to 6201 Hollywood Boulevard (the “North Assignment Agreement”), dated as of June 27, 2017, between the Operating Partnership and iStar REO Holdings TRS LLC; and
- 9) the Assignment, Assumption and Transfer Agreement relating to 6200 Hollywood Boulevard (the “South Assignment Agreement”), dated as of June 27, 2017, between the Operating Partnership and iStar REO Holdings TRS LLC.

The Underwriting Agreement, LPA, the Management Agreement, the Exclusivity Agreement, the Registration Rights Agreement, the Initial Portfolio Agreement, the Option GNL Agreement, the North Assignment Agreement and the South Assignment Agreement are filed herewith as Exhibits 1.1, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7 and 10.8 respectively, and are each incorporated herein by reference. The terms of these agreements are substantially the same as the terms set forth in the forms of such agreements filed as exhibits to the Registration Statement and described in the Prospectus.

#### *Revolving Credit Facility*

On June 27, 2017, the Company, entered into a credit agreement (the “Credit Agreement”), as the borrower, with the General Partner, the Operating Partnership and certain subsidiaries of the Operating Partnership from time to time party thereto, as guarantors, Bank of America, N.A., as administrative agent, Bank of America, N.A., JPMorgan Chase Bank, N.A. and Barclays Bank PLC, as L/C issuers, and the other lenders party thereto, Merrill Lynch, Pierce, Fenner & Smith Incorporated, JPMorgan Chase Bank, N.A. and Barclays Bank PLC, as joint

---

lead arrangers, and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as sole bookrunner. The Credit Agreement provides for a secured revolving credit facility with aggregate secured borrowing capacity of up to \$300.0 million, subject to borrowing base availability and certain other conditions. The borrowers may, subject to certain conditions, including obtaining additional commitments from lenders, request additional commitments under the credit facility to increase the aggregate commitments to up to \$500.0 million. Availability of borrowings is based on a borrowing base of assets comprised of ground net leases (“GNLs”) and first priority mortgage loans held by the Company on GNLs owned by third parties; provided, however, that GNLs of unimproved land or properties under development may not exceed 10% of the borrowing base assets and mortgage loans may not exceed 10% of the mortgage assets.

The Credit Agreement has an initial maturity of June 27, 2020, which may be extended for an additional year no more than two times upon the payment of applicable fees and satisfaction of certain other conditions. Borrowings under the Credit Agreement will bear interest at a per annum rate of applicable LIBOR plus 1.35%. The applicable LIBOR will be the rate with a term equivalent to the interest period applicable to the relevant borrowing. The facility is freely prepayable at any time and is mandatorily prepayable by the Company if the borrowing base availability is at any time less than zero (in an amount equal to such deficiency in coverage).

The General Partner, the Operating Partnership and each of the Operating Partnership’s subsidiaries that owns a direct or indirect interest in a borrowing base asset will be guarantors under the Credit Facility (and, other than the Operating Partnership and any direct or indirect owner thereof, have its equity pledged) until the Company receives an investment grade corporate credit rating from S&P Global Ratings or Moodys Investors Service, Inc. Under certain circumstances, the Company may also be required to grant mortgages to the lenders on borrowing base assets.

The Credit Agreement contains representations, warranties, covenants, terms and conditions customary for transactions of this type, including but not limited to:

- a limitation on total consolidated leverage of not more than 70%, or 75% for no more than 180 days, of total consolidated assets;
- a consolidated fixed charge coverage ratio of at least 1.45x;
- a consolidated tangible net worth of at least \$269,994,750 plus 75% of future issuances of net equity;
- a consolidated secured leverage ratio of not more than 70%, or 75% for no more than 180 days, of total consolidated assets;
- a secured recourse debt ratio of not more than 5.0% of total consolidated assets;
- limitations on the Company’s ability to pay distributions to its stockholders;

- limitations on indebtedness, liens, fundamental changes, borrowing base asset dispositions, restricted payments, investments, negative pledges, lines of business and transactions with affiliates; and
- default provisions, including defaults for non-payment, breach of representations and warranties, insolvency, non-performance of covenants, cross-defaults and guarantor defaults.

The foregoing summary of the Credit Agreement is qualified in its entirety by reference to the Credit Agreement, a copy of which is filed herewith as Exhibit 10.9 and incorporated herein by reference.

Merrill Lynch, Pierce, Fenner & Smith Incorporated, Bank of America, N.A., JPMorgan Chase Bank, N.A. and Barclays Bank PLC are each an underwriter or an affiliate of an underwriter in the Offering.

**Item 3.03 Material Modification to Rights of Security Holders.**

The information set forth under Item 5.03 below is incorporated by reference into this Item 3.03.

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

As contemplated in the Prospectus, on June 27, 2017, Ms. Robin Josephs, Mr. Jay S. Nydick and Mr. Stefan M. Selig became directors of the Company. On that date, as contemplated in the Prospectus, the Company granted to each of Mr. Dean S. Adler, Ms. Robin Josephs, Mr. Jay S. Nydick and Mr. Stefan M. Selig, the Company's directors, 10,000 shares of common stock under the Safety, Income and Growth, Inc. 2017 Equity Incentive Plan (the "Equity Incentive Plan"), representing an initial grant in consideration of the director's agreement to serve on the Company's board of directors. For biographical information on the new directors, see "Management—Our Directors and Director Nominees" in the Prospectus. For further information regarding the Equity Incentive Plan, see "Management—Equity Incentive Plan" in the Prospectus.

**Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

In connection with the Offering, the Company filed Articles of Amendment and Restatement with the State Department of Assessments and Taxation of Maryland and adopted new Bylaws. The Articles of Amendment and Restatement and the Bylaws are filed herewith as Exhibits 3.1 and 3.2, respectively, and incorporated herein by reference. The terms of the Articles of Amendment and Restatement and the Bylaws are substantially the same as the terms set forth in the forms of such documents filed as exhibits to the Registration Statement and described in the Prospectus.

**Item 8.01 Other Events.**

On June 27, 2017, the Company completed the Offering by issuing 10,250,000 shares of Common Stock for cash consideration of \$20.00 per share to a syndicate of underwriters led by Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC and Barclays Capital Inc. The other underwriters in the syndicate were Citigroup Global Markets Inc., Raymond James & Associates, Inc. and Mizuho Securities USA LLC. On June 27, 2017, the Company completed the concurrent iStar placement by issuing 2,250,000 shares of Common Stock for cash consideration of \$20.00 per share to iStar for an aggregate purchase price of \$45.0 million. iStar has agreed to pay the underwriting discounts and commissions payable to the underwriters in connection with the Offering, the Company's other offering expenses and the Company's expenses incurred in connection with the concurrent iStar placement, in an aggregate amount not to exceed \$25.0 million.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits.**

Exhibit No.	Description
1.1	Underwriting Agreement, dated as of June 21, 2017, among Safety, Income and Growth, Inc., Safety Income and Growth Operating Partnership LP and SFTY Manager LLC, on the one hand, and Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC and Barclays Capital Inc., as representatives of the several underwriters named therein, on the other hand
3.1	Articles of Amendment and Restatement of Safety, Income and Growth, Inc., dated as of June 23, 2017
3.2	Bylaws of Safety, Income and Growth, Inc., dated as of June 27, 2017
10.1	First Amended and Restated Limited Partnership Agreement of Safety Income and Growth Operating Partnership LP, dated as of June 27, 2017, among Safety, Income and Growth, Inc. and SIGOP GenPar LLC
10.2	Management Agreement, dated as of June 27, 2017, among Safety, Income and Growth, Inc., Safety Income and Growth Operating Partnership LP and SFTY Manager LLC
10.3	Exclusivity and Expense Reimbursement Agreement, dated as of June 27, 2017, between Safety, Income and Growth, Inc. and iStar Inc.
10.4	Registration Rights Agreement, dated as of June 27, 2017, between Safety, Income and Growth, Inc. and iStar Inc.

- 10.5 Initial Portfolio Agreement, dated as of June 27, 2017, among Safety, Income and Growth, Inc., Safety Income and Growth Operating Partnership LP and iStar Inc.
- 10.6 Option Purchase Agreement, dated as of June 27, 2017, between Safety Income and Growth Operating Partnership LP and iStar Inc.
- 10.7 Assignment, Assumption and Transfer Agreement relating to 6201 Hollywood Boulevard, dated as of June 27, 2017, between Safety Income and Growth Operating Partnership LP and iStar REO Holdings TRS LLC
- 10.8 Assignment, Assumption and Transfer Agreement relating to 6200 Hollywood Boulevard, dated as of June 27, 2017, between Safety Income and Growth Operating Partnership LP and iStar REO Holdings TRS LLC
- 10.9 Credit Agreement, dated as of June 27, 2017, among Safety, Income and Growth, Inc., as borrower, SIGOP GenPar LLC, Safety Income and Growth Operating Partnership LP and certain of its subsidiaries from time to time party thereto, as guarantors, Bank of America, N.A., as administrative agent, Bank of America, N.A., JPMorgan Chase Bank, N.A. and Barclays Bank PLC, as L/C issuers and the other lenders party thereto, Merrill Lynch, Pierce, Fenner & Smith Incorporated, JPMorgan Chase Bank, N.A. and Barclays Bank PLC, as joint lead arrangers, and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as sole bookrunner

4

### SIGNATURE

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 hereunto duly authorized.

SAFETY, INCOME AND GROWTH, INC.

By: /s/ JAY SUGARMAN

Name: Jay Sugarman

Title: Chief Executive Officer

Date: June 30, 2017

5

### EXHIBIT INDEX

Exhibit No.	Description
1.1	Underwriting Agreement, dated as of June 21, 2017, among Safety, Income and Growth, Inc., Safety Income and Growth Operating Partnership LP and SFTY Manager LLC, on the one hand, and Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC and Barclays Capital Inc., as representatives of the several underwriters named therein, on the other hand
3.1	Articles of Amendment and Restatement of Safety, Income and Growth, Inc., dated as of June 23, 2017
3.2	Bylaws of Safety, Income and Growth, Inc., dated as of June 27, 2017
10.1	First Amended and Restated Limited Partnership Agreement of Safety Income and Growth Operating Partnership LP, dated as of June 27, 2017, among Safety, Income and Growth, Inc. and SIGOP GenPar LLC
10.2	Management Agreement, dated as of June 27, 2017, among Safety, Income and Growth, Inc., Safety Income and Growth Operating Partnership LP and SFTY Manager LLC
10.3	Exclusivity and Expense Reimbursement Agreement, dated as of June 27, 2017, between Safety, Income and Growth, Inc. and iStar Inc.
10.4	Registration Rights Agreement, dated as of June 27, 2017, between Safety, Income and Growth, Inc. and iStar Inc.
10.5	Initial Portfolio Agreement, dated as of June 27, 2017, among Safety, Income and Growth, Inc., Safety Income and Growth Operating Partnership LP and iStar Inc.
10.6	Option Purchase Agreement, dated as of June 27, 2017, between Safety Income and Growth Operating Partnership LP and iStar Inc.
10.7	Assignment, Assumption and Transfer Agreement relating to 6201 Hollywood Boulevard, dated as of June 27, 2017, between Safety Income and Growth Operating Partnership LP and iStar REO Holdings TRS LLC
10.8	Assignment, Assumption and Transfer Agreement relating to 6200 Hollywood Boulevard, dated as of June 27, 2017, between Safety Income and Growth Operating Partnership LP and iStar REO Holdings TRS LLC
10.9	Credit Agreement, dated as of June 27, 2017, among Safety, Income and Growth, Inc., as borrower, SIGOP GenPar LLC, Safety Income and Growth Operating Partnership LP and certain of its subsidiaries from time to time party thereto, as guarantors, Bank of America, N.A., as administrative agent, Bank of America, N.A., JPMorgan Chase Bank, N.A. and Barclays Bank PLC, as L/C issuers and the other



SAFETY, INCOME AND GROWTH, INC.  
(a Maryland corporation)

10,250,000 Shares of Common Stock, \$0.01 par value per share

UNDERWRITING AGREEMENT

Dated: June 21, 2017

SAFETY, INCOME AND GROWTH, INC.  
(a Maryland corporation)

10,250,000 Shares of Common Stock

UNDERWRITING AGREEMENT

June 21, 2017

Merrill Lynch, Pierce, Fenner & Smith  
Incorporated  
One Bryant Park  
New York, New York 10036

J.P. Morgan Securities LLC  
383 Madison Avenue  
New York, New York 10179

Barclays Capital Inc.  
745 Seventh Avenue  
New York, New York 10019

as Representatives of the several Underwriters

Ladies and Gentlemen:

Safety, Income and Growth, Inc., a Maryland corporation, Safety Income and Growth Operating Partnership LP, a Delaware limited partnership (the "Operating Partnership," and together with the Company, the "Transaction Entities"), and SFTY Manager LLC, a Delaware limited liability company (the "Manager"), confirm their respective agreements with Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), J.P. Morgan Securities LLC ("JPMorgan"), Barclays Capital Inc. ("Barclays") and each of the other Underwriters named in Schedule A hereto (collectively, the "Underwriters," which term shall also include any underwriter substituted as hereinafter provided in Section 11 hereof, for whom Merrill Lynch, JPMorgan and Barclays are acting as representatives (in such capacity, the "Representatives"), with respect to (i) the sale by the Company (as defined below) and the purchase by the Underwriters, acting severally and not jointly, of the respective numbers of shares of common stock, \$0.01 par value per share, of the Company ("Common Stock") set forth in Schedule A hereto totaling 10,250,000 shares of Common Stock in the aggregate and (ii) the grant by the Company to the Underwriters, acting severally and not jointly, of the option described in Section 2(b) hereof to purchase all or any part of 1,537,500 additional shares of Common Stock. The aforesaid 10,250,000 shares of Common Stock (the "Initial Securities") to be purchased by the Underwriters and all or any part of the 1,537,500 shares of Common Stock subject to the option described in Section 2(b) hereof (the "Option Securities") are hereinafter called, collectively, the "Securities." The term "Company" as used herein shall mean Safety, Income and Growth, Inc., together with its consolidated subsidiaries, including the Operating Partnership, after giving effect to the Formation Transactions (as defined below). The terms "Predecessor" or "predecessor entities" as used herein shall mean the Company's predecessor before giving effect to the Formation Transactions.

Prior to or concurrently with the sale of the Securities, the Company will (i) complete a series of transactions described in the Registration Statement, the General Disclosure Package and the Prospectus (as each term is defined below) under the caption "Structure and Formation of Our Company," including the acquisition of all of the equity interests in its predecessor entities, all of which were wholly-owned by iStar Inc. ("iStar") (the "Formation Transactions"); and (ii) sell 2,250,000 shares of Common Stock in a private placement to iStar at a price per share of \$20.00 (the "Concurrent iStar Placement").

The Transaction Entities understand that the Underwriters propose to make a public offering of the Securities as soon as the Representatives deem advisable after this Agreement has been executed and delivered.

The Company and the Underwriters agree that up to 512,000 shares of the Initial Securities to be purchased by the Underwriters (the "Reserved Securities") shall be reserved for sale by the Underwriters to certain persons designated by the Company (the "Invitees"), as part of the distribution of the Securities by the Underwriters, subject to the terms of this Agreement, the applicable rules, regulations and interpretations of the Financial Industry Regulatory Authority, Inc. ("FINRA") and all other applicable laws, rules and regulations. The Company solely determined, without any direct or indirect participation by the Underwriters, the Invitees who will purchase Reserved Securities (including the amount to be purchased by such persons) sold by the

Underwriters. To the extent that such Reserved Securities are not orally confirmed for purchase by Invitees by 11:59 P.M. (New York City time) on the date of this Agreement, such Reserved Securities may be offered to the public as part of the public offering contemplated hereby.

The Company has filed with the Securities and Exchange Commission (the “Commission”) a registration statement on Form S-11 (No. 333-217224), including the related preliminary prospectus or prospectuses, covering the registration of the offer and sale of the Securities under the Securities Act of 1933, as amended (the “1933 Act”). Promptly after execution and delivery of this Agreement, the Company will prepare and file a prospectus in accordance with the provisions of Rule 430A (“Rule 430A”) of the rules and regulations of the Commission under the 1933 Act (the “1933 Act Regulations”) and Rule 424(b) (“Rule 424(b)”) of the 1933 Act Regulations. The information included in such prospectus that was omitted from such registration statement at the time it became effective but that is deemed to be part of such registration statement at the time it became effective pursuant to Rule 430A(b) is hereinafter called the “Rule 430A Information.” Such registration statement, including the amendments, exhibits and any schedules thereto, as of the time it became effective, and including the Rule 430A Information, is hereinafter called the “Registration Statement.” Any registration statement filed pursuant to Rule 462(b) of the 1933 Act Regulations (“Rule 462(b)”) is hereinafter called the “Rule 462(b) Registration Statement” and, after such filing, the term “Registration Statement” shall include the Rule 462(b) Registration Statement. Each prospectus used prior to the effectiveness of the Registration Statement, and each prospectus that omitted the Rule 430A Information that was used after such effectiveness and prior to the execution and delivery of this Agreement, if any, is hereinafter called a “preliminary prospectus.” The final prospectus, in the form first furnished to the Underwriters for use in connection with the offering of the Securities, is hereinafter called the “Prospectus.” For purposes of this Agreement, all references to the Registration Statement, any preliminary prospectus, the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system or any successor system (“EDGAR”).

As used in this Agreement:

“Applicable Time” means 4:30 P.M., New York City time, on June 21, 2017 or such other time as agreed by the Company and the Representatives.

2

---

“General Disclosure Package” means any Issuer General Use Free Writing Prospectuses (as defined below) issued prior to the Applicable Time, the most recent preliminary prospectus included in the Registration Statement that is distributed to investors prior to the Applicable Time and the information included on Schedule B-1 hereto, all considered together.

“Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433 of the 1933 Act Regulations (“Rule 433”), including, without limitation, any “free writing prospectus” (as defined in Rule 405 of the 1933 Act Regulations (“Rule 405”)) relating to the Securities that is (i) required to be filed with the Commission by the Company, (ii) a “road show that is a written communication” within the meaning of Rule 433(d)(8)(i) of the 1933 Act Regulations (“Rule 433(d)(8)(i)”), whether or not required to be filed with the Commission, or (iii) exempt from filing with the Commission pursuant to Rule 433(d)(5)(i) of the 1933 Act Regulations because it contains a description of the Securities or of the offering of the Securities that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g) of the 1933 Act Regulations.

“Issuer General Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors (other than a “*bona fide* electronic road show,” as defined in Rule 433 (the “Bona Fide Electronic Road Show”)), as specified in Schedule B-2 hereto.

“Issuer Limited Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

“Testing-the-Waters Communication” means any oral or written communication with potential investors undertaken in reliance on Section 5(d) of the 1933 Act.

“Written Testing-the-Waters Communication” means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the 1933 Act.

## SECTION 1. Representations and Warranties.

(a) *Representations and Warranties by the Transaction Entities.* Each of the Transaction Entities, jointly and severally, represents and warrants to each Underwriter at the date hereof, the Applicable Time, the Closing Time (as defined below) and each Date of Delivery (as defined below), if any, and agrees with each Underwriter, as follows:

(i) Registration Statement and Prospectuses. Each of the Registration Statement and any post-effective amendment thereto has become effective under the 1933 Act. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the 1933 Act, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes or pursuant to Section 8A of the 1933 Act have been instituted or are pending or, to the knowledge of either of the Transaction Entities, contemplated. The Company has complied with each request, if any, from the Commission for additional information.

Each of the Registration Statement and any post-effective amendment thereto, at the time it became effective, complied in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations. The preliminary prospectus that is included in the General Disclosure Package, at the time it was filed with the Commission, complied, and the Prospectus and each

3

---

amendment or supplement thereto, at the time each was filed with the Commission, complied in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations. Each preliminary prospectus and the Prospectus delivered to the Underwriters for use in connection with

the offering of the Securities were or will be substantially identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(ii) Accurate Disclosure. Neither the Registration Statement nor any post-effective amendment thereto, at the time it became effective, the date hereof, the Closing Time or any Date of Delivery, contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. At the Applicable Time, none of (A) the General Disclosure Package, (B) any individual Issuer Limited Use Free Writing Prospectus, when considered together with the General Disclosure Package, or (C) any individual Written Testing-the-Waters Communication, when considered together with the General Disclosure Package, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Neither the Prospectus nor any amendment or supplement thereto (including any prospectus wrapper), at its issue date, the time of any filing with the Commission pursuant to Rule 424(b), the Closing Time or any Date of Delivery, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The representations and warranties in this Section 1(a)(ii) shall not apply to statements in or omissions from the Registration Statement (or any amendment thereto) or the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives expressly for use therein. For purposes of this Agreement, the only information so furnished shall be the information in the first paragraph under the heading “Underwriting—Commissions and Discounts,” the information in the second and third paragraphs under the heading “Underwriting—Price Stabilization, Short Positions and Penalty Bids” and the information under the heading “Underwriting—Electronic Distribution”, in each case contained in the Registration Statement, the General Disclosure Package and the Prospectus (collectively, the “Underwriter Information”).

(iii) Testing-the-Waters Materials. Neither of the Transaction Entities (A) have engaged in any Testing-the-Waters Communication other than Testing-the-Waters Communications with the prior written consent of the Representatives with entities that are qualified institutional buyers within the meaning of Rule 144A of the 1933 Act Regulations or institutions that are accredited investors within the meaning of Rule 501 of the 1933 Act Regulations or (B) have authorized anyone other than the Representatives to engage in Testing-the-Waters Communications. The Transaction Entities reconfirm that the Representatives have been authorized to act on their behalf in undertaking Testing-the-Waters Communications. Neither of the Transaction Entities has distributed any Written Testing-the-Waters Communications other than those listed on Schedule B-3 hereto.

(iv) Issuer Free Writing Prospectuses. No Issuer Free Writing Prospectus that has not been superseded or modified conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, or any preliminary or other prospectus deemed to be a part thereof that has not been superseded or modified. Each Issuer Free Writing Prospectus conformed or will conform in all material respects to the requirements of the 1933 Act and the

---

1933 Act Regulations on the date of first use, and the Company has complied with any filing requirements applicable to such Issuer Free Writing Prospectus pursuant to the 1933 Act Regulations. Neither of the Transaction Entities has made any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus without the prior written consent of the Representatives; provided, that such consent is deemed to have been given with respect to each Issuer Free Writing Prospectus, if any, identified on Schedule B-2. The Company has retained in accordance with the 1933 Act Regulations all Issuer Free Writing Prospectuses that were not required to be filed pursuant to the 1933 Act Regulations. The Company has made available a Bona Fide Electronic Road Show in compliance with Rule 433(d)(8)(ii) of the 1933 Act Regulations such that no filing of any “road show” (as defined in Rule 433(h) of the 1933 Act Regulations) is required in connection with the offering of the Securities.

(v) Company Not Ineligible Issuer. At the time of filing the Registration Statement and any post-effective amendment thereto, the earliest time thereafter that either Transaction Entity or other offering participant made a *bona fide* offer of the Securities (within the meaning of Rule 164(h)(2) of the 1933 Act Regulations) and the date hereof, the Company was not and is not an “ineligible issuer,” as defined in Rule 405, without taking account of any determination by the Commission pursuant to Rule 405 that it is not necessary that the Company be considered an ineligible issuer.

(vi) Emerging Growth Company Status. From the time of the initial confidential submission of the Registration Statement to the Commission (or, if earlier, the first date on which the Transaction Entities engaged directly or through any Person authorized to act on their behalf in any Testing-the-Waters Communication) through the date hereof, the Company has been and is an “emerging growth company,” as defined in Section 2(a) of the 1933 Act (an “Emerging Growth Company”).

(vii) Independent Accountants. The accountants who certified the financial statements and supporting schedules included in the Registration Statement, the General Disclosure Package and the Prospectus are independent public accountants with respect to the Transaction Entities as required by the 1933 Act, the 1933 Act Regulations and the Public Company Accounting Oversight Board.

(viii) Financial Statements; Non-GAAP Financial Measures. The financial statements included in the Registration Statement, the General Disclosure Package and the Prospectus, together with the related schedules and notes, present fairly in all material respects the financial position of the Predecessor at the dates indicated and the results of operations, stockholders’ equity and cash flows of the Predecessor for the periods specified, and such financial statements have been prepared in conformity with U.S. generally accepted accounting principles (“GAAP”) applied on a consistent basis throughout the periods presented. The supporting schedules, if any, relating to the Predecessor present fairly in all material respects in accordance with GAAP the information required to be stated therein. The summary selected and the selected financial and operating data included in the Registration Statement, the General Disclosure Package and the Prospectus present fairly in all material respects the information shown therein and have been compiled on a basis consistent with that of the audited or unaudited, as applicable, financial statements of the Predecessor included therein. The pro forma financial statements of the Company and the related notes thereto included in the Registration Statement, the General Disclosure Package and the Prospectus, if any, present fairly in all material respects the information shown therein, have been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements and have been properly compiled on the bases described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. Except as included in the Registration Statement, the General Disclosure



Package and the Prospectus, no historical or pro forma financial statements or supporting schedules are required to be included in the Registration Statement, the General Disclosure Package or the Prospectus under the 1933 Act or the 1933 Act Regulations. All disclosures contained in the Registration Statement, the General Disclosure Package or the Prospectus regarding “non-GAAP financial measures” (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G under the Securities Exchange Act of 1934, as amended (the “1934 Act”), and Item 10 of Regulation S-K under the 1933 Act, in each case to the extent applicable.

(ix) No Material Adverse Change. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, (A) there has been no material adverse change in or affecting the real properties owned or leased (as a tenant) by the Transaction Entities and their respective subsidiaries after giving effect to the Formation Transactions (collectively, the “Properties”) taken as a whole or in the condition, financial or otherwise, or in the earnings, business affairs, management or business prospects of the Transaction Entities and their respective subsidiaries considered as one enterprise (and assuming completion of the Formation Transactions), whether or not arising in the ordinary course of business (a “Material Adverse Effect”), (B) there have been no transactions entered into by either of the Transaction Entities or any of their respective subsidiaries, other than in the ordinary course of business, which are material with respect to the Transaction Entities and their respective subsidiaries, considered as one enterprise, (C) there has been no liability or obligation, direct or contingent (including off-balance sheet obligations), which is material to the Transaction Entities and their respective subsidiaries considered as one enterprise, incurred by either of the Transaction Entities or any of their respective subsidiaries outside the ordinary course of their business and (D) there has been no distribution of any kind declared, paid or made by either of the Transaction Entities on any class of its shares of capital stock, in the case of the Company, any units of limited partnership interest, in the case of the Operating Partnership (“OP Units”), or other form of ownership interests, as applicable.

(x) Good Standing of the Company. The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Maryland, has all corporate power and authority to own, lease and operate its properties, conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and enter into and perform its obligations under this Agreement, and is duly qualified to transact business as a foreign entity and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not, singly or in the aggregate, result in a Material Adverse Effect.

(xi) Good Standing of Subsidiaries. Each significant subsidiary of the Company (as such term is defined in Rule 1-02 of Regulation S-X) (including, without limitation, the Operating Partnership) (each, a “Subsidiary” and collectively, the “Subsidiaries”) has been duly organized or formed, as applicable, and is validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, has corporate, trust, partnership, limited liability company or similar power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and is duly qualified to transact business as a foreign entity and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not, singly or in the aggregate, result in a Material Adverse Effect. Except as disclosed in the Registration Statement, the General

Disclosure Package and the Prospectus, all of the issued and outstanding ownership interests in each Subsidiary of the Company (including, without limitation, all of the issued and outstanding OP Units) have been duly authorized and validly issued, are fully paid and non-assessable, were issued in accordance with all applicable securities laws and are owned by the Company, directly or through wholly-owned subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity, and none of the outstanding ownership interests in any Subsidiary of the Company were issued in violation of any preemptive rights, resale rights, rights of first offer or refusal or other similar rights. The only subsidiaries of the Company are (A) the subsidiaries of the Company listed on Exhibit 21 to the Registration Statement and (B) certain other subsidiaries which, considered in the aggregate as a single subsidiary, do not constitute a “significant subsidiary,” as defined in Rule 1-02 of Regulation S-X.

(xii) Capitalization. The authorized, issued and outstanding shares of capital stock of the Predecessor as of December 31, 2016 are as set forth in the Registration Statement, the General Disclosure Package and the Prospectus in the column entitled “Predecessor Historical Combined” under the caption “Capitalization” (except for subsequent issuances, if any, pursuant to this Agreement, pursuant to reservations, agreements or employee benefit plans referred to in the Registration Statement, the General Disclosure Package and the Prospectus or pursuant to the exercise of convertible or exchangeable securities or options referred to in the Registration Statement, the General Disclosure Package and the Prospectus). Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, (i) no shares of capital stock of the Company are reserved for any purpose, (ii) there are no outstanding instruments convertible into or exchangeable for any shares of capital stock or any other ownership interest of the Company, and (iii) there are no outstanding options, rights (preemptive or otherwise) or warrants to purchase or subscribe for shares of capital stock or any other ownership interests of the Company. Each of (A) the outstanding shares of capital stock of the Company, (B) all outstanding instruments convertible into or exchangeable for any capital stock or any other ownership interests of the Company and (C) all outstanding options, rights or warrants to purchase or subscribe for shares of capital stock or any other ownership interests of the Company has been duly authorized and validly issued, is fully paid and non-assessable, was issued in accordance with all applicable securities laws and conforms in all material respects to all statements relating thereto in the Registration Statement, the General Disclosure Package and the Prospectus and none of such outstanding shares of capital stock, instruments, options, rights or warrants were issued in violation of any preemptive rights, resale rights, rights of first offer or refusal or other similar rights.

(xiii) No Equity Awards. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, neither of the Transaction Entities has granted to any person or entity a stock option or other equity-based award of or relating to Common Stock pursuant to an equity-based compensation plan or otherwise.

(xiv) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by each of the Transaction Entities.

(xv) Authorization and Description of Securities. The Securities to be purchased by the Underwriters have been duly authorized for issuance and sale to the Underwriters pursuant to this Agreement and, when the Securities have been issued and delivered by the Company pursuant to this Agreement against payment of the consideration set forth herein, the Securities will be validly issued, fully paid and non-assessable and will not be subject to any preemptive rights, resale rights, rights of first offer or refusal or other similar rights. The Securities conform in all material respects to all statements relating thereto contained in the Registration Statement, the General Disclosure Package and the Prospectus and such description conforms in all material

7

respects to the rights set forth in the instruments defining the same. No holder of Securities will be subject to personal liability by reason of being such a holder.

(xvi) Ownership and Description of OP Units. The First Amended and Restated Limited Partnership Agreement of the Operating Partnership (the "Operating Partnership Agreement") is in full force and effect, and, at the Closing Time and each Date of Delivery, if any, the aggregate percentage interests of the Company and the limited partners in the Operating Partnership will be as set forth in the Registration Statement, the General Disclosure Package and the Prospectus, provided that, to the extent any portion of the Underwriters' option to purchase the Option Securities is exercised hereunder, the percentage interest of the limited partners in the Operating Partnership will be adjusted accordingly. At the Closing Time and each Date of Delivery, if any, the Company will contribute the proceeds from the sale of the Initial Securities and, to the extent any portion of the Underwriters' option is exercised, the related Option Securities to the Operating Partnership in exchange for a number of OP Units equal to the number of Initial Securities and Option Securities issued. All of the OP Units issued in exchange for the Initial Securities and the Option Securities have been duly authorized and, at the Closing Time and each Date of Delivery, if any, will be validly issued, fully paid and non-assessable and will be owned by the Company free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity, and none of such OP Units will be issued in violation of any preemptive rights, resale rights, rights of first offer or refusal or other similar rights. The terms of the OP Units conform in all material respects to the description thereof contained in the Registration Statement, the General Disclosure Package and the Prospectus and such description conforms in all material respects to the rights set forth in the instruments defining the same. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, (A) no OP Units are reserved for any purpose, (B) there are no outstanding securities convertible into or exchangeable for any OP Units or any other ownership interests of the Operating Partnership and (C) there are no outstanding options, rights (preemptive or otherwise) or warrants to purchase or subscribe for OP Units or any other ownership interests of the Operating Partnership.

(xvii) Registration Rights. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus and properly waived, there are no persons with registration rights or other similar rights to have any securities registered for sale pursuant to the Registration Statement or the Prospectus or otherwise by either of the Transaction Entities under the 1933 Act or to have securities included as part of the offering of the Securities.

(xviii) Absence of Violations, Defaults and Conflicts. Neither of the Transaction Entities nor any of their respective subsidiaries is (A) in violation of its charter, bylaws, certificate of limited partnership, limited partnership agreement, limited liability company agreement or other organizational document, (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which either of the Transaction Entities or any of their respective subsidiaries is a party or by which it or any of them may be bound or to which any of their respective Properties, assets or operations is subject (collectively, "Agreements and Instruments"), except for such defaults that would not, singly or in the aggregate, result in a Material Adverse Effect, or (C) in violation of any law, statute, rule, regulation, judgment, order, writ or decree of any arbitrator, court, governmental agency or body, regulatory body, administrative agency or other authority, body or agency having jurisdiction over either of the Transaction Entities or any of their respective subsidiaries or their respective Properties, assets or operations (each, a "Governmental Entity"), except for such violations that would not, singly or in the aggregate, result in a Material Adverse Effect. The execution, delivery and performance of this Agreement and the consummation of the transactions

8

contemplated herein and in the Registration Statement, the General Disclosure Package and the Prospectus (including the issuance and sale of the Securities, the Formation Transactions, the Concurrent iStar Placement and the use of the net proceeds from the sale of the Securities and the Concurrent iStar Placement as described therein under the caption "Use of Proceeds") and compliance by the Transaction Entities with their respective obligations hereunder have been duly authorized by all necessary corporate or limited partnership action, as applicable, and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the Properties, assets or operations of either of the Transaction Entities or any of their respective subsidiaries pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults, Repayment Events, liens, charges or encumbrances that would not, singly or in the aggregate, result in a Material Adverse Effect), nor will such action result in any violation of (i) the provisions of the charter, bylaws, certificate of limited partnership, limited partnership agreement, limited liability company agreement or other organizational document, as applicable, of either of the Transaction Entities or any of their respective subsidiaries or (ii) any applicable law, statute, rule, regulation, judgment, order, writ or decree of any Governmental Entity, except in the case of clause (ii) only, for any such violation that would not, singly or in the aggregate, result in a Material Adverse Effect. As used herein, a "Repayment Event" means any event or condition which gives the holder of any financing instrument (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such financing by either of the Transaction Entities or any of their respective subsidiaries.

(xix) Absence of Employees. Neither of the Transaction Entities nor any of their respective subsidiaries has any employees, and neither of the Transaction Entities are aware of any existing or imminent labor disturbance by the employees of any of their tenants or subtenants, which, in either case, would, singly or in the aggregate, result in a Material Adverse Effect.

(xx) Absence of Proceedings. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, there is no action, suit, proceeding, inquiry or investigation before or brought by any Governmental Entity pending, or, to the knowledge of either of the Transaction Entities, threatened, against or affecting the Predecessor, the Transaction Entities or any of their respective subsidiaries, which (A) is

required to be disclosed in the Registration Statement, the preliminary prospectus that is included in the General Disclosure Package or the Prospectus (other than as disclosed therein), (B) would, singly or in the aggregate, result in a Material Adverse Effect, or (C) would materially and adversely affect the Properties, assets or operations of the Transaction Entities and their respective subsidiaries, taken as a whole, or the consummation of (i) the transactions contemplated in this Agreement or the performance by the Transaction Entities of their respective obligations hereunder or (ii) the Concurrent iStar Placement. The aggregate of all pending legal or governmental proceedings to which any of the Predecessor, the Transaction Entities or any of their respective subsidiaries is a party or of which any of their respective Properties, assets or operations is the subject which are not described in the Registration Statement, the General Disclosure Package and the Prospectus, including ordinary routine litigation incidental to the business, would not singly or in the aggregate result in a Material Adverse Effect.

(xxi) Accuracy of Exhibits. There are no leases, contracts, franchises, indentures, mortgages, loan agreements, notes or other agreements or instruments that are required to be described in the Registration Statement, the preliminary prospectus that is included in the General Disclosure Package or the Prospectus or to be filed as exhibits to the Registration Statement that have not been so described or filed as required.

9

---

(xxii) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any Governmental Entity is necessary or required for the due authorization, execution, delivery or performance by either of the Transaction Entities of its respective obligations hereunder, for the offering, issuance, sale or delivery of the Securities by the Company, or for the completion of the Formation Transactions or the Concurrent iStar Placement, except (A) such as may be required under the 1933 Act and the 1933 Act Regulations, which have been obtained, or as may be required under the securities laws of any U.S. state or non-U.S. jurisdiction or the rules of FINRA and (B) such as have been obtained under the laws and regulations of jurisdictions outside the United States in which the Reserved Securities were offered.

(xxiii) Possession of Licenses and Permits. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Transaction Entities and their respective subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, the “Governmental Licenses”) issued by the appropriate Governmental Entities under applicable law necessary to conduct the business now operated by them, except where the failure so to possess would not, singly or in the aggregate, result in a Material Adverse Effect. The Transaction Entities and their respective subsidiaries are in compliance with the terms and conditions of all of the Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, result in a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of the Governmental Licenses or the failure of the Governmental Licenses to be in full force and effect would not, singly or in the aggregate, result in a Material Adverse Effect. Neither of the Transaction Entities nor any of their respective subsidiaries has received any notice of proceedings relating to the revocation or modification of any of the Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(xxiv) Title to Property. (A) The Transaction Entities and their subsidiaries will have good and marketable fee simple title to, or leasehold interest under a ground lease in, the Properties, in each case, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims or equities of any kind other than those that (1) are described in the Registration Statement, the General Disclosure Package and the Prospectus or (2) do not, singly or in the aggregate, materially affect the value of such Property and do not materially interfere with the use made and proposed to be made of such Property by the Transaction Entities and any of their respective subsidiaries; (B) except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, none of the Transaction Entities or any of their respective subsidiaries owns or leases any real property other than the Properties; (C) each of the ground leases under which a Transaction Entity or one of its subsidiaries is a tenant relating to a Property are in full force and effect, with such exceptions as do not materially interfere with the use made or proposed to be made of such Property by either of the Transaction Entities or any of their respective subsidiaries, and (1) no default or event of default has occurred under any such ground lease with respect to such Property and none of the Transaction Entities or any of their respective subsidiaries has received any notice of any event which, whether with or without the passage of time or the giving of notice, or both, would constitute a default under such ground lease and (2) none of the Transaction Entities or any of their respective subsidiaries has received any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Transaction Entities or any of their respective subsidiaries under any of the ground leases mentioned above, or affecting or questioning the rights of the Transaction Entities and any of their respective subsidiaries to the continued possession of the leased premises under any such ground lease; (D) all security interests, mortgages, pledges, liens, encumbrances, claims or equities on any of the Properties that are required to be disclosed in the Registration Statement or

10

---

the Prospectus are disclosed therein; (E) except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, no tenant under any of the leases of the Properties to which a Transaction Entity or any of its subsidiaries is a party (as a landlord) (the “Leases”) has a right of first refusal or an option to purchase any Property; (F) the Transaction Entities have no actual knowledge that any Property fails to comply with all applicable codes, laws and regulations (including, without limitation, building and zoning codes, laws and regulations and laws relating to access to such Property), except for such failures to comply that would not, singly or in the aggregate, result in a Material Adverse Effect; (G) no mortgage or deed of trust encumbering any Property is convertible into ownership interests in a Transaction Entity or any of its subsidiaries; and (H) none of the Transaction Entities or any of their respective subsidiaries or, to the knowledge of either of the Transaction Entities, any lessee under a Lease is in default under any of the Leases and none of the Transaction Entities or any of their respective subsidiaries knows of any event which, whether with or without the passage of time or the giving of notice, or both, would constitute a default under any of the Leases, except, in each case, for such defaults that would not, singly or in the aggregate, result in a Material Adverse Effect.

(xxv) Joint Venture Agreements. Each of the partnership agreements or limited liability company agreements to which either of the Transaction Entities or any of their respective Subsidiaries is a party has been duly authorized, executed and delivered by each Transaction Entity or their respective Subsidiaries, as applicable, and constitutes the legal, valid and binding agreement thereof, enforceable in accordance with its terms, except, in each case, to the extent that enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting creditors’ rights or remedies generally or by general equitable principles, and, with respect to equitable relief, the discretion of the court before which any proceeding therefor may be brought (regardless of whether enforcement is sought in a proceeding at law or in equity), and with respect to any indemnification provisions contained therein, except as rights under those provisions may be limited by applicable law or

policies underlying such law. Neither of the Transaction Entities nor any of their respective subsidiaries is party to any other joint venture agreements with any unaffiliated third party.

(xxvi) Possession of Intellectual Property. The Transaction Entities and their respective subsidiaries own or possess, or can acquire on reasonable terms, adequate patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, "Intellectual Property") reasonably necessary to conduct the business now operated by them, and neither of the Transaction Entities nor any of their respective subsidiaries has received any notice or is otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interest of the Transaction Entities or any of their respective subsidiaries therein, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, singly or in the aggregate, would result in a Material Adverse Effect.

(xxvii) Environmental Laws. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus and except as would not, singly or in the aggregate, result in a Material Adverse Effect, (A) none of the Transaction Entities or any of their respective subsidiaries has given notice to any tenant under a Lease of a default by such tenant under such Lease arising from a violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment,

11

---

relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials or mold (collectively, "Hazardous Materials") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "Environmental Laws") or has actual knowledge of any such violation, (B) the Transaction Entities and their respective subsidiaries have obtained all permits, authorizations and approvals under any applicable Environmental Laws required to be obtained by them under the Lease and are each in compliance with their requirements, and the Transaction Entities have no actual knowledge of any absence of, or non-compliance with, any permits, authorizations or approvals required under any applicable Environmental Laws relating to any of the Properties, (C) there are no pending or threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations or proceedings relating to any Environmental Law against the Transaction Entities, any of their respective subsidiaries or, to the knowledge of the Transaction Entities, any of the Properties, and (D) to the knowledge of the Transaction Entities, there are no events or circumstances that would reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or Governmental Entity, against or affecting the Transaction Entities, any of their respective subsidiaries or any of the Properties relating to Hazardous Materials or any Environmental Laws.

(xxviii) Accounting Controls and Disclosure Controls. The Company and its subsidiaries (i) have taken all necessary actions to ensure that, within the time period required under applicable law, the Company and its subsidiaries will maintain effective internal control over financial reporting (as defined under Rules 13a-15 and 15d-15 of the rules and regulations of the Commission under the 1934 Act (the "1934 Act Regulations")) and (ii) currently maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (A) transactions are executed in accordance with management's general or specific authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the Registration Statement, the General Disclosure Package and the Prospectus, since the end of the Company's most recent audited fiscal year, there has been (1) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (2) no change in the Company's internal control over financial reporting that has materially and adversely affected, or is reasonably likely to materially and adversely affect, the Company's internal control over financial reporting.

(xxix) Compliance with the Sarbanes-Oxley Act. The Company has taken all necessary actions to ensure that, upon the effectiveness of the Registration Statement it will be in compliance with all applicable provisions of the Sarbanes-Oxley Act of 2002 and all rules and regulations promulgated thereunder or implementing the provisions thereof (the "Sarbanes-Oxley Act") that are then in effect and with which the Company is required to comply as of the effectiveness of the Registration Statement and is actively taking reasonable steps to ensure that it will be in compliance with other provisions of the Sarbanes-Oxley Act not currently in effect, upon the effectiveness of such provisions, or which will become applicable to the Company at all times after the effectiveness of the Registration Statement. As of the date of the initial filing of the Registration Statement, there were no outstanding personal loans made, directly or indirectly, by the Company to any director or executive officer of the Company.

12

---

(xxx) Payment of Taxes. All U.S. federal, state, local and non-U.S. income tax returns of the Transaction Entities and their respective subsidiaries required by law to be filed have been filed, and all taxes shown by such returns or otherwise assessed, which are due and payable, have been paid, except assessments against which appeals have been taken and as to which adequate reserves have been provided. The charges, accruals and reserves on the books of the Transaction Entities and their respective subsidiaries in respect of any tax liability for any years not finally determined are adequate to meet any assessments or re-assessments for additional tax for any years not finally determined, except to the extent of any inadequacy that would not, singly or in the aggregate, result in a Material Adverse Effect.

(xxxii) ERISA. No Transaction Entity sponsors, maintains, contributes to, has any liability with respect to, or could reasonably be expected to have any liability with respect to any "employee benefit plan" within the meaning of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("ERISA"). No portion of the assets of either Transaction Entity constitutes "plan assets" for purposes of Title I of ERISA or Section 4975 of the Internal Revenue Code of 1986, as amended (the "Code").

(xxxiii) Business Insurance. The Transaction Entities and their respective subsidiaries carry or are entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as is generally maintained by companies of established repute

engaged in the same or similar business, and all such insurance is in full force and effect. Neither of the Transaction Entities has any reason to believe that it or any of their respective subsidiaries will not be able to (A) renew, if desired, its existing insurance coverage as and when such policies expire or (B) obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not, singly or in the aggregate, result in a Material Adverse Effect. Neither of the Transaction Entities nor any of their respective subsidiaries has been denied any insurance coverage which it has sought or for which it has applied. The Transaction Entities, directly or indirectly, have obtained customary title insurance on their fee interests and/or leasehold interests, as the case may be, in each of the Properties.

(xxxiii) Investment Company Act. Neither of the Transaction Entities is required, or upon the issuance and sale of the Securities as contemplated herein or the shares of Common Stock in the Concurrent iStar Placement and, in each case, the application of the net proceeds therefrom as described in the Registration Statement, the General Disclosure Package and the Prospectus will be required, to register as an “investment company” under the Investment Company Act of 1940, as amended (the “1940 Act”).

(xxxiv) Absence of Manipulation. Neither of the Transaction Entities nor any of their respective subsidiaries or other affiliates has taken or will take, directly or indirectly, any action which is designed, or would be expected, to cause or result in, or which constitutes, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or a violation of Regulation M under the 1934 Act.

(xxxv) Foreign Corrupt Practices Act. None of the Predecessor, the Transaction Entities, any of their respective subsidiaries or, to the knowledge of either of the Transaction Entities, any director, officer, partner, agent, employee, affiliate that is under the management control of the Transaction Entities or their subsidiaries or other person acting on behalf of any of the Predecessor, the Transaction Entities or the Manager or any of their respective subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “FCPA”), or any other applicable anti-bribery laws, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in

13

---

furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA. Each of the Predecessor, the Transaction Entities and their respective subsidiaries and, to the knowledge of each of the Transaction Entities, their respective affiliates that are under the management control of the Transaction Entities or their subsidiaries have conducted their businesses in compliance with the FCPA and any other applicable anti-bribery laws and have instituted and maintain and enforce policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xxxvi) Money Laundering Laws. The operations of each of the Predecessor, the Transaction Entities and their respective subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of (A) the Currency and Foreign Transactions Reporting Act of 1970, as amended, (B) the money laundering statutes of all jurisdictions, the rules and regulations thereunder and (C) any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the “Money Laundering Laws”). No action, suit or proceeding by or before any Governmental Entity involving any of the Predecessor, the Transaction Entities or any of their respective subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of either of the Transaction Entities, threatened.

(xxxvii) OFAC. None of the Predecessor, the Transaction Entities, any of their respective subsidiaries or, to the knowledge of either of the Transaction Entities, any director, officer, partner, agent, employee, affiliate or other person acting on behalf of any of the Predecessor, the Transaction Entities or the Manager or any of their respective subsidiaries is an individual or entity (“Person”) currently the subject or target of any sanctions administered or enforced by the United States Government, including, without limitation, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority (collectively, “Sanctions”), nor are the Predecessor, the Transaction Entities or any of their respective subsidiaries located, organized or resident in a country or territory that is the subject of Sanctions. The Company will not directly or indirectly use the proceeds from the sale of the Securities or shares of Common Stock in the Concurrent iStar Placement, or lend, contribute or otherwise make available such proceeds to any subsidiaries, joint venture partners or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

(xxxviii) Lending Relationship. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, neither of the Transaction Entities (i) has any material lending or other relationship with any Underwriter or any affiliate of any Underwriter or (ii) intends to use any of the proceeds from the sale of the Securities or shares of Common Stock in the Concurrent iStar Placement to repay any outstanding debt owed to any Underwriter or any affiliate of any Underwriter.

(xxxix) Sales of Reserved Securities. In connection with any offer and sale of Reserved Securities outside the United States, each preliminary prospectus, the Prospectus, any prospectus wrapper and any amendment or supplement thereto, at the time it was delivered to Invitees, complied and will comply in all material respects with any applicable laws or regulations of foreign jurisdictions. The Company has not offered, or caused the Representatives to offer, Reserved Securities to any person with the specific intent to unlawfully influence (i) a customer

14

---

or supplier of the Company or any of its affiliates to alter the customer’s or supplier’s level or type of business with any such entity or (ii) a trade journalist or publication to write or publish favorable information about the Company or any of its affiliates, or their respective businesses or products.

(xl) Statistical and Market-Related Data. Any statistical and market-related data included in the Registration Statement, the General Disclosure Package or the Prospectus are based on or derived from sources that the Company believes, after reasonable inquiry, to be reliable and accurate in all material respects and, to the extent required, the Company has obtained the written consent to the use of such data from such sources.

(xli) Real Estate Investment Trust. The Company's current organization and proposed method of operation, as described in the Registration Statement, the General Disclosure Package and the Prospectus, will enable the Company to meet the requirements for qualification and taxation as a real estate investment trust ("REIT") pursuant to Sections 856 through 860 of the Code commencing with its taxable year ending December 31, 2017. All statements regarding the Company's qualification and taxation as a REIT and descriptions of the Company's current organization and proposed method of operation (inasmuch as they relate to the Company's qualification and taxation as a REIT commencing with its taxable year ending December 31, 2017) set forth in the Registration Statement, the General Disclosure Package and the Prospectus are accurate and fair summaries of the legal or tax matters described therein in all material respects.

(xlii) Management Agreement. The management agreement (the "Management Agreement"), to be entered into between the Transaction Entities and the Manager, has been duly authorized by each of the Transaction Entities and, at the Closing Time, will be duly executed and delivered by, and will be a valid and legally binding agreement of, each of the Transaction Entities, enforceable against the Transaction Entities in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general equitable principles, and with respect to any indemnification provisions contained therein, except as rights under those provisions may be limited by applicable law or policies underlying such law.

(xliii) Exclusivity Agreement. The exclusivity agreement (the "Exclusivity Agreement"), to be entered into between the Transaction Entities and iStar, has been duly authorized by each of the Transaction Entities and, at the Closing Time, will be duly executed and delivered by, and will be a valid and legally binding agreement of, each of the Transaction Entities, enforceable against the Transaction Entities in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general equitable principles and public policy.

(xliv) Prior Sales of Common Stock or OP Units. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company has not issued, sold or distributed, or agreed to issue, sell or distribute, any shares of Common Stock and the Operating Partnership has not issued, sold or distributed, or agreed to issue, sell or distribute, any OP Units.

(xlv) Approval of Listing. The Securities have been approved for listing on the New York Stock Exchange, subject to official notice of issuance.

(xlvi) Distributions. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, (A) the Company is not currently prohibited, directly or indirectly, from making any distributions to its stockholders and (B) neither the Operating

---

Partnership nor any direct or indirect subsidiary of the Company is prohibited, directly or indirectly, from making any distributions, directly or indirectly, to the Company, from making any other distribution on any of its ownership interests, from repaying any of its loans or advances, including those made, directly or indirectly, by the Company, or from loaning or otherwise making funds available, directly or indirectly, to the Company.

(xlvii) Finder's Fees. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company has not incurred any liability for any finder's fees or similar payments in connection with the transactions contemplated in this Agreement, except as may otherwise exist with respect to the Underwriters pursuant to this Agreement.

(xlviii) Certain Relationships. No relationship, direct or indirect, exists between or among either of the Transaction Entities, on the one hand, and the directors, officers, stockholders, partners, customers or suppliers of the Transaction Entities, on the other hand, which is required to be described in the Registration Statement, the General Disclosure Package or the Prospectus which is not so described.

(xlix) Private Placement Purchase Agreement. The private placement purchase agreement relating to the Concurrent iStar Placement (the "Private Placement Purchase Agreement"), dated as of the date of this Agreement, between the Transaction Entities and iStar, has been duly authorized, executed and delivered by each of the Transaction Entities and constitutes a valid and binding agreement of each of the Transaction Entities, enforceable against each of the Transaction Entities in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general equitable principles.

(l) Authorization of Common Stock in the Formation Transactions and the Concurrent iStar Placement. The shares of Common Stock sold or to be sold in the Formation Transactions and the Concurrent iStar Placement have been duly authorized for issuance and sale, and when issued and delivered by the Company pursuant to the subscription agreement relating to the Formation Transactions, dated as of April 14, 2017, and the Private Placement Purchase Agreement, as applicable, were or will be validly issued and fully paid and non-assessable, and free and clear of any pledge, lien, encumbrance, security interest or other claim.

(li) No Registration of Concurrent iStar Placement. It is not necessary, in connection with the offer or sale of the Common Stock to iStar pursuant to the Private Placement Purchase Agreement, in the manner contemplated by the Private Placement Purchase Agreement, to register such offer or sale of Common Stock under the 1933 Act, and such offer and sale will not be integrated with the offer and sale of the Securities as contemplated by this Agreement, the Registration Statement, the General Disclosure Package and the Prospectus.

(lii) No Ratings. No securities issued by the Transaction Entities or any of their respective subsidiaries are rated by any "nationally recognized statistical rating organization" (as defined for purposes of Section 3(a)(62) under the 1934 Act).

(b) Representations and Warranties by the Manager. The Manager represents and warrants to each Underwriter at the date hereof, the Applicable Time, the Closing Time and each Date of Delivery, if any, and agrees with each Underwriter, as follows:

(i) Certain Information. The information provided by the Manager set forth under the headings “Prospectus Summary — The Company — Management Agreement”, “Our Manager and the Management Agreement” and “Certain Relationships and Related Transactions” in the Registration Statement, the General Disclosure Package and the Prospectus is true and correct in

all material respects. As of the date of this Agreement, neither the Manager nor any affiliate of the Manager has any plan or intention to materially alter its capital investment policy or investment allocation policy with respect to the Company as described in the Registration Statement, the General Disclosure Package and the Prospectus.

(ii) Good Standing of the Manager. The Manager is a limited liability company duly organized and validly existing and in good standing under the laws of the State of Delaware and has limited liability company power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and to enter into and perform its obligations under this Agreement and the Management Agreement; and the Manager is duly qualified as a foreign limited liability company to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not, singly or in the aggregate, result in a Material Adverse Effect.

(iii) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Manager.

(iv) Authorization of Management Agreement. The Management Agreement has been duly authorized by the Manager and, at the Closing Time, will be duly executed and delivered by, and will be a valid and legally binding agreement of, the Manager, enforceable against the Manager in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors’ rights generally and by general equitable principles, and with respect to any indemnification provisions contained therein, except as rights under those provisions may be limited by applicable law or policies underlying such law.

(v) Absence of Defaults and Conflicts. The Manager is not in violation of its limited liability company agreement or other organizational documents or in default in the performance or observance of any obligation, agreement, covenant or condition contained in Agreements and Instruments to which it is bound or by which it may be bound, or which any of its property, assets or operations is subject, except for such defaults that would not result in a Material Adverse Effect; and the execution, delivery and performance of this Agreement and the Management Agreement and the consummation of the transactions contemplated herein and therein and in the Registration Statement, the General Disclosure Package and the Prospectus and compliance by the Manager with its obligations hereunder and thereunder have been duly authorized by all necessary limited liability company action and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event under, or result in the creation or imposition of any lien, charge or encumbrance upon any property, assets or operations of the Manager pursuant to, its Agreements and Instruments (except for such conflicts, breaches, defaults, Repayment Events, liens, charges or encumbrances that would not, singly or in the aggregate, result in a Material Adverse Effect), nor will such action result in any violation of (i) the provisions of the limited liability company agreement or other organizational documents of the Manager or (ii) any applicable law, statute, rule, regulation, judgment, order, writ or decree of any Government Entity, except in the case of clause (ii) only, for any such violation that would not, singly or in the aggregate, result in a Material Adverse Effect.

(vi) Absence of Further Requirements. Except as have been made or obtained, no filing with, or authorization, approval, consent, license, order, registration, qualification or

decree of any Governmental Entity is necessary or required for due authorization, execution and delivery by the Manager of the Management Agreement.

(vii) Possession of Licenses and Permits. The Manager possesses such Governmental Licenses issued by the appropriate Governmental Entities necessary for the Manager to perform its duties set forth in the Management Agreement, except where the failure so to possess would not, singly or in the aggregate, result in a Material Adverse Effect. The Manager is in compliance with the terms and conditions of all of the Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, result in a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of the Governmental Licenses or the failure of the Governmental Licenses to be in full force and effect would not, singly or in the aggregate, result in a Material Adverse Effect. The Manager has not received any notice of proceedings relating to the revocation or modification of any of the Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(viii) Absence of Proceedings. Except as described in the Registration Statement, the General Disclosure Package and the Prospectus, there is no action, suit, proceeding, inquiry or investigation before or brought by any Governmental Entity pending, or, to the knowledge of the Manager, threatened, against or affecting the Manager which (A) would, singly or in the aggregate, result in a Material Adverse Effect, or (B) would materially and adversely affect the consummation by the Manager of the transactions contemplated in this Agreement or the Management Agreement or the performance by the Manager of its obligations hereunder or thereunder. The aggregate of all pending legal or governmental proceedings to which the Manager is a party or of which any of its properties, assets or operations is the subject, including ordinary routine litigation incidental to the business, would not, singly or in the aggregate, result in a Material Adverse Effect.

(ix) Employment; Noncompetition; Nondisclosure. The Manager has not been notified that any of its executive officers or key employees plans to terminate his or her employment with the Manager. Neither the Manager nor any executive officer or key employee of the Manager is subject to any noncompete, nondisclosure, confidentiality, employment, consulting or similar agreement that would be violated by the present or proposed business activities of the Company or the Manager as described in the Management Agreement, the Registration Statement, the General Disclosure Package and the Prospectus, except for such violations that would not, singly or in the aggregate, result in a Material Adverse Effect.

(x) Internal Controls. The Manager intends to operate a system of internal controls sufficient to provide reasonable assurance that (A) transactions that may be effectuated by it on behalf of the Transaction Entities pursuant to its duties set forth in the Management Agreement will be executed in accordance with management's general or specific authorization and (B) access to the Transaction Entities' assets is permitted only in accordance with management's general or specific authorization.

(xi) Investment Advisers Act. The Manager is not prohibited by the Investment Advisers Act of 1940, as amended, or the rules and regulations thereunder, from performing the duties set forth in the Management Agreement and disclosed in the Registration Statement, the General Disclosure Package and the Prospectus.

(xii) Foreign Corrupt Practices Act. None of the Manager, any of its subsidiaries or, to the knowledge of the Manager, any director, officer, partner, agent, employee, affiliate that is under the management control of the Manager or its subsidiaries or other person acting on behalf

18

---

of the Manager or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the FCPA or any other applicable anti-bribery laws, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA. The Manager and its subsidiaries and, to the knowledge of the Manager, its affiliates that are under the management control of the Manager or its subsidiaries have conducted their businesses in compliance with the FCPA and any other applicable anti-bribery laws and have instituted and maintain and enforce policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xiii) Money Laundering Laws. The operations of the Manager and its subsidiaries are and have been conducted at all times in compliance with applicable Money Laundering Laws. No action, suit or proceeding by or before any Governmental Entity involving the Manager or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Manager, threatened.

(xiv) OFAC. None of the Manager, any of its subsidiaries or, to the knowledge of the Manager, any director, officer, partner, agent, employee, affiliate or other person acting on behalf of the Manager or any of its subsidiaries is a Person currently the subject or target of any Sanctions, nor are the Manager or any of its subsidiaries located, organized or resident in a country or territory that is the subject of Sanctions. The Manager will not directly or indirectly use the proceeds from the sale of the Securities or shares of Common Stock in the Concurrent iStar Placement, or lend, contribute or otherwise make available such proceeds to any subsidiaries, joint venture partners or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

(c) Officer's Certificates. Any certificate signed by any officer or other representative of either of the Transaction Entities or any of their respective subsidiaries delivered to the Representatives or to counsel for the Underwriters shall be deemed a representation and warranty by such Transaction Entity to each Underwriter as to the matters covered thereby. Any certificate signed by any officer or other representative of the Manager delivered to the Representatives or to counsel for the Underwriters shall be deemed a representation and warranty by the Manager to each Underwriter as to the matters covered thereby.

## SECTION 2. Sale and Delivery to Underwriters; Closing.

(a) Initial Securities. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company agrees to sell to each Underwriter, severally and not jointly, and each Underwriter, severally and not jointly, agrees to purchase from the Company, at the price per share set forth in Schedule A the number of Initial Securities set forth in Schedule A opposite the name of such Underwriter, plus any additional number of Initial Securities which such Underwriter may become obligated to purchase pursuant to the provisions of Section 11 hereof, subject, in each case, to such adjustments among the Underwriters as Merrill Lynch in its sole discretion shall make to eliminate any sales or purchases of fractional shares.

19

---

(b) Option Securities. In addition, on the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company hereby grants an option to the Underwriters, severally and not jointly, to purchase up to an additional 1,537,500 Option Securities at the price per share set forth in Schedule A, less an amount per share equal to any distributions declared by the Company and payable on the Initial Securities but not payable on the Option Securities. The option hereby granted will expire 30 days after the date hereof and may be exercised in whole or in part at any time from time to time upon notice by the Representatives to the Company setting forth the number of Option Securities as to which the several Underwriters are then exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (a "Date of Delivery") shall be determined by the Representatives, but shall not be later than seven full business days after the exercise of said option, nor in any event prior to the Closing Time. If the option is exercised as to all or any portion of the Option Securities, each of the Underwriters, acting severally and not jointly, will purchase that proportion of the total number of Option Securities then being purchased which the number of Initial Securities set forth in Schedule A opposite the name of such Underwriter bears to the total number of Initial Securities, subject, in each case, to such adjustments as Merrill Lynch in its sole discretion shall make to eliminate any sales or purchases of fractional shares.

(c) Payment. Payment of the purchase price for, and delivery of certificates for or book-entry credits representing, the Initial Securities shall be made at the offices of Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019, or at such other place as shall be agreed upon by the Representatives and the Company, at 9:00 A.M. (New York City time) on the third (fourth, if the pricing occurs after 4:30 P.M. (New York City time) on any given day) business day after the date hereof (unless postponed in accordance with the provisions of Section 11), or such other time not later than ten business days after such date as shall be agreed upon by the Representatives and the Company (such time and date of payment and delivery being hereinafter called the "Closing Time").



In addition, in the event that any or all of the Option Securities are purchased by the Underwriters, payment of the purchase price for, and delivery of certificates for or book-entry credits representing, such Option Securities shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Representatives and the Company, on each Date of Delivery as specified in the notice from the Representatives to the Company.

Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated by the Company against delivery to the Representatives for the respective accounts of the Underwriters of certificates for or book-entry credits representing the Securities to be purchased by them. It is understood that each Underwriter has authorized the Representatives, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Initial Securities and the Option Securities, if any, which it has agreed to purchase. Merrill Lynch, individually and not as a representative of the Underwriters, may (but shall not be obligated to) make payment of the purchase price for the Initial Securities or the Option Securities, if any, to be purchased by any Underwriter whose funds have not been received by the Closing Time or the relevant Date of Delivery, as the case may be, but such payment shall not relieve such Underwriter from its obligations hereunder.

(d) *Denominations; Registration.* Certificates for the Initial Securities and the Option Securities, if any, shall be in such denominations and registered in such names as the Representatives may request in writing at least one full business day before the Closing Time or the relevant Date of Delivery, as the case may be. The certificates for the Initial Securities and the Option Securities, if any, will be made available for examination and packaging by the Representatives in The City of New York not later than 10:00 A.M. (New York City time) on the business day prior to the Closing Time or the relevant Date of Delivery, as the case may be.

SECTION 3. Covenants of the Company. Each of the Transaction Entities, jointly and severally, covenants with each Underwriter as follows:

(a) *Compliance with Securities Regulations and Commission Requests.* The Company, subject to Section 3(b), will comply with the requirements of Rule 430A, and will notify the Representatives immediately, and confirm the notice in writing, (i) when any post-effective amendment to the Registration Statement shall become effective or any amendment or supplement to the Prospectus shall have been filed, (ii) of the receipt of any comments from the Commission, (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or for additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment or of any order preventing or suspending the use of any preliminary prospectus or the Prospectus, or of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(d) or 8(e) of the 1933 Act concerning the Registration Statement and (v) if the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Securities. The Company will effect all filings required under Rule 424(b), in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)), and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company will make every reasonable effort to prevent the issuance of any stop, prevention or suspension order and, if any such order is issued, to obtain the lifting thereof at the earliest possible moment.

(b) *Continued Compliance with Securities Laws.* The Company will comply with the 1933 Act and the 1933 Act Regulations so as to permit the completion of the distribution of the Securities as contemplated in this Agreement and in the Registration Statement, the General Disclosure Package and the Prospectus. If at any time when a prospectus relating to the Securities is (or, but for the exception afforded by Rule 172 of the 1933 Act Regulations (“Rule 172”), would be) required by the 1933 Act to be delivered in connection with sales of the Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, to (i) amend the Registration Statement in order that the Registration Statement will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) amend or supplement the General Disclosure Package or the Prospectus in order that the General Disclosure Package or the Prospectus, as the case may be, will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser or (iii) amend the Registration Statement or amend or supplement the General Disclosure Package or the Prospectus, as the case may be, in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Company will promptly (A) give the Representatives notice of such event, (B) prepare, as applicable, any amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement, the General Disclosure Package or the Prospectus comply with such requirements and, a reasonable amount of time prior to any proposed filing or use, furnish the Representatives with copies of any such amendment or supplement and (C) file with the Commission any such amendment or supplement; provided, however, that the Company shall not file or use any such amendment or supplement to which the Representatives or counsel for the Underwriters shall reasonably object. The Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request. The Company has given the Representatives written notice of each filing, if any, made pursuant to the 1934 Act or the 1934 Act Regulations within 48 hours prior to the Applicable Time and will give the Representatives notice of its intention to make any filings pursuant to the 1934 Act or the 1934 Act Regulations from the Applicable

Time to the Closing Time and, a reasonable amount of time prior to its proposed filing or use, will furnish the Representatives with copies of any such documents and will not file or use any such document to which the Representatives or counsel for the Underwriters shall reasonably object.

(c) *Delivery of Registration Statements.* The Company has furnished or will deliver to the Representatives and counsel for the Underwriters, without charge, signed copies of the Registration Statement as originally filed and of each amendment thereto (including exhibits filed therewith) and signed copies of all consents and certificates of experts, and will also deliver to the Representatives, without charge, a conformed copy of the Registration Statement as originally filed and of each amendment thereto (without exhibits) for each of the Underwriters. The copies of the Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(d) *Delivery of Prospectuses.* The Company has delivered to each Underwriter, without charge, as many copies of each preliminary prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when a prospectus relating to the Securities is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the 1933 Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter

may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) *Blue Sky Qualifications.* The Company will use its best efforts, in cooperation with the Underwriters, to qualify the Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representatives may reasonably designate and to maintain such qualifications in effect so long as required to complete the distribution of the Securities; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(f) *Rule 158.* The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its securityholders an earnings statement for the purposes of, and to provide to the Underwriters the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(g) *Use of Proceeds.* The Company will use the net proceeds received by it from the sale of the Securities and the shares of Common Stock in the Concurrent iStar Placement in the manner specified in the Registration Statement, the General Disclosure Package and the Prospectus under “Use of Proceeds.”

(h) *Listing.* The Company will use its best efforts to effect and maintain the listing of the Common Stock (including the Securities) on the New York Stock Exchange.

(i) *Restriction on Sale of Securities.* During a period of 180 days from the date of the Prospectus, neither Transaction Entity will, without the prior written consent of the Representatives, directly or indirectly, (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or lend or otherwise transfer or dispose of any shares of Common Stock or any securities convertible into or exercisable or

22

---

exchangeable for shares of Common Stock (including, without limitation, OP Units) or file any registration statement under the 1933 Act with respect to any of the foregoing or publicly announce the intention to do any of the foregoing or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Common Stock, whether any such swap, other agreement or transaction described in clause (i) or (ii) above is to be settled by delivery of shares of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to (A) the Securities to be sold hereunder or the shares of Common Stock in the Concurrent iStar Placement, (B) any shares of Common Stock issued by the Company upon the exercise of an option or warrant or the conversion or exchange of a security, in each case outstanding on the date hereof and disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, (C) any shares of Common Stock, OP Units, LTIP Units, dividend equivalent rights or other equity based awards issued or options to purchase Common Stock granted pursuant to existing employee benefit plans of the Company disclosed in the Registration Statement, the General Disclosure Package and the Prospectus (including the filing of a registration statement on Form S-8 relating to such existing employee benefit plans of the Company), (D) the issuance of any shares of Common Stock or OP Units by the Company or the Operating Partnership in the Formation Transactions as described in the Registration Statement, the General Disclosure Package and the Prospectus, (E) OP Units, in the aggregate not to exceed 15% of the number of OP Units outstanding, issued in connection with the acquisition of property or assets, or (F) any shares of Common Stock issued pursuant to any non-employee director share plan or distribution reinvestment plan disclosed in the Registration Statement, the General Disclosure Package and the Prospectus.

(j) *Reporting Requirements.* The Company, during the period when a prospectus relating to the Securities is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the 1933 Act, will file all documents required to be filed with the Commission pursuant to the 1934 Act within the time periods required by the 1934 Act and the 1934 Act Regulations. Additionally, the Company shall report the use of proceeds from the issuance of the Securities as may be required under Rule 463 under the 1933 Act.

(k) *Issuer Free Writing Prospectuses.* The Transaction Entities agree that, unless they obtain the prior written consent of the Representatives, neither Transaction Entity will make any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a “free writing prospectus,” or a portion thereof, required to be filed by the Company with the Commission or retained by the Company under Rule 433; provided, that the Representatives will be deemed to have consented to the Issuer Free Writing Prospectuses listed on Schedule B-2 hereto and any “road show that is a written communication” within the meaning of Rule 433(d)(8)(i) that has been reviewed and approved by the Representatives. Any such free writing prospectus consented to, or deemed consented to, as the case may be, by the Representatives is hereinafter referred to as a “Permitted Free Writing Prospectus.” The Company represents that it has treated or agrees that it will treat each Permitted Free Writing Prospectus as an “issuer free writing prospectus,” as defined in Rule 433, and that it has complied and will comply with the applicable requirements of Rule 433 with respect thereto, including timely filing with the Commission where required, legending and record keeping. If at any time following the issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement or the Prospectus or any preliminary prospectus or other prospectus deemed to be part thereof that has not been superseded or modified, or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

23

---

(l) *Absence of Manipulation.* Neither of the Transaction Entities nor any of their respective subsidiaries or other affiliates will take, directly or indirectly, any action which is designed, or would be expected, to cause or result in, or which constitutes, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or a violation of Regulation M under the 1934 Act.

(m) *REIT Qualification.* The Company will use its best efforts to meet the requirements to qualify as a REIT under the Code for the taxable year ending December 31, 2017 and to continue to meet such requirements until the Board of Directors of the Company determines that it is no longer in the best interests of the Company and its stockholders to qualify as a REIT.

(n) *Testing-the-Waters Materials.* If at any time following the distribution of any Written Testing-the-Waters Communication there occurred or occurs an event or development as a result of which such Written Testing-the-Waters Communication included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Written Testing-the-Waters Communication to eliminate or correct such untrue statement or omission.

(o) *Emerging Growth Company Status.* The Company will promptly notify the Representatives if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of the Securities within the meaning of the 1933 Act and (ii) completion of the 180-day restricted period referred to in Section 3(i).

(p) *Compliance with the Sarbanes-Oxley Act.* Each of the Transaction Entities will comply in all material respects with all applicable provisions of the Sarbanes-Oxley Act that are in effect.

(q) *Stop Transfer Instructions for Common Stock.* The Company will enter stop transfer instructions with the transfer agent and registrar of the Common Stock against the transfer of the shares of Common Stock that are subject to the agreements described in Section 6(i) hereof except in compliance with the restrictions set forth in such agreements.

(r) *Compliance with FINRA Rules.* The Company hereby agrees that it will ensure that the Reserved Securities will be restricted as required by FINRA or the FINRA rules from sale, transfer, assignment, pledge or hypothecation for a period of three months following the date of this Agreement. The Underwriters will notify the Company as to which persons will need to be so restricted. At the request of the Underwriters, the Company will direct the transfer agent to place a stop transfer restriction upon such securities for such period of time. Should the Company release, or seek to release, from such restrictions any of the Reserved Securities, the Company agrees to reimburse the Underwriters for any reasonable expenses (including, without limitation, legal expenses) they incur in connection with such release.

SECTION 4. Covenants of the Manager. The Manager covenants with each Underwriter and with the Transaction Entities that, during the period when a prospectus relating to the Securities is (or, but for the exception afforded by Rule 172, would be) required by the 1933 Act to be delivered in connection with sales of the Securities, it shall notify the Underwriters and the Transaction Entities of the occurrence of any material event respecting the Manager's business, activities, affairs or operating or financial results or condition, and the Manager will forthwith supply such information to the Company as shall be necessary in the opinion of counsel to the Company and the Underwriters for the Company to prepare any amendment or supplement to the Registration Statement, the General Disclosure Package and the

24

---

Prospectus so that, as so amended or supplemented, the same will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein (except in the case of the Registration Statement, in the light of the circumstances existing at the time it is delivered to a purchaser) not misleading.

SECTION 5. Payment of Expenses.

(a) *Expenses.* Each of the Transaction Entities, jointly and severally, agrees to pay all expenses incident to the performance of their obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits thereto) as originally filed and of each amendment thereto, (ii) the preparation, printing and delivery to the Underwriters of this Agreement, (iii) the preparation, issuance and delivery of the certificates for the Securities to the Underwriters, including any share or other transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Securities to the Underwriters, (iv) the fees and disbursements of the Company's counsel, accountants and other advisors, (v) the qualification of the Securities under securities laws in accordance with the provisions of Section 3(e) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplement thereto, (vi) the preparation, printing and delivery to the Underwriters of copies of each preliminary prospectus, each Issuer Free Writing Prospectus and the Prospectus and any amendments or supplements thereto, and any costs associated with electronic delivery of any of the foregoing by the Underwriters to investors, (vii) the fees and expenses of any transfer agent or registrar for the Securities, (viii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Securities, including, without limitation, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and the cost of aircraft and other transportation chartered in connection with the road show, (ix) the filing fees incident to, and the reasonable fees and disbursements of counsel to the Underwriters in connection with, the review by FINRA of the terms of the sale of the Securities (not to exceed \$25,000), (x) the fees and expenses incurred in connection with the listing of the Common Stock (including the Securities) on the New York Stock Exchange, (xi) the costs and expenses (including, without limitation, any damages or other amounts payable in connection with legal or contractual liability) associated with the reforming of any contracts for sale of the Securities made by the Underwriters caused by a breach of the representation contained in the second sentence of Section 1(a)(ii), and (xii) all costs and expenses of the Underwriters, including the fees and disbursements of counsel for the Underwriters, in connection with matters related to the Reserved Securities which are designated by the Company for sale to Invitees (not to exceed \$20,000).

(b) *Termination of Agreement.* If this Agreement is terminated by the Representatives in accordance with the provisions of Section 6, Section 10(a)(i) or (iii) or Section 11 hereof, the Company shall reimburse the Underwriters for all of their out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Underwriters.

SECTION 6. Conditions of Underwriters' Obligations. The obligations of the several Underwriters hereunder are subject to the accuracy of the representations and warranties of the Transaction Entities and the Manager contained in Section 1(a) hereof as of the date hereof, the Applicable Time and the Closing Time or in certificates of any officer or other representative of either of the Transaction Entities, the Manager or any of their respective subsidiaries delivered pursuant to the provisions hereof, to the performance by the Transaction Entities and the Manager of their respective covenants and other obligations hereunder, and to the following further conditions:

25

(a) *Effectiveness of Registration Statement; Rule 430A Information.* The Registration Statement, including any Rule 462(b) Registration Statement, has become effective under the 1933 Act and, at the Closing Time, no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the 1933 Act, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes or pursuant to Section 8A of the 1933 Act have been instituted or are pending or, to the knowledge of either of the Transaction Entities, contemplated; and the Company has complied with each request, if any, from the Commission for additional information. A prospectus containing the Rule 430A Information has been filed with the Commission in the manner and within the time frame required by Rule 424(b) without reliance on Rule 424(b)(8) or a post-effective amendment providing such information has been filed with, and declared effective by, the Commission in accordance with the requirements of Rule 430A. Each Issuer Free Writing Prospectus, if any, has been filed with the Commission in the manner and within the time frame required by Rule 433(d).

(b) *Opinion of Counsel for the Company and the Manager.* At the Closing Time, the Representatives shall have received the favorable opinion, dated the Closing Time, of Clifford Chance US LLP, counsel for the Company and the Manager, in form and substance reasonably satisfactory to the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, to the effect set forth in Exhibit A hereto. In giving such opinion, such counsel may rely upon the opinion of Venable LLP as to all matters governed by the laws of the State of Maryland. Such counsel may also state that, insofar as such opinion involves factual matters, it has relied, to the extent it deems proper, upon certificates of officers and other representatives of the Transaction Entities and their respective subsidiaries and certificates of public officials.

(c) *Opinion of Maryland Counsel for Company.* At the Closing Time, the Representatives shall have received the favorable opinion, dated the Closing Time, of Venable LLP, Maryland counsel for the Company, in form and substance reasonably satisfactory to the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, to the effect set forth in Exhibit B hereto.

(d) *Opinion of Counsel for the Underwriters.* At the Closing Time, the Representatives shall have received the favorable opinion, dated the Closing Time, of Sidley Austin LLP, counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, with respect to such matters as the Representatives shall reasonably request. In giving such opinion, such counsel may rely upon the opinion of Venable LLP as to all matters governed by the laws of the State of Maryland. Such counsel may also state that, insofar as such opinion involves factual matters, it has relied, to the extent it deems proper, upon certificates of officers and other representatives of the Transaction Entities and their respective subsidiaries and certificates of public officials.

(e) *Company Officers' Certificate.* At the Closing Time, there shall not have been, since the date hereof, since the Applicable Time or since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, any material adverse change in or affecting the Properties taken as a whole or in the condition, financial or otherwise, or in the earnings, business affairs, management or business prospects of the Transaction Entities and their respective subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, and the Representatives shall have received a certificate of the Chief Executive Officer or President of the Company and of the Chief Financial Officer or Chief Accounting Officer of the Company, dated the Closing Time, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties of the Transaction Entities contained herein are true and correct with the same force and effect as though expressly made at and as of the Closing Time, (iii) the Transaction Entities have complied with all agreements and satisfied all conditions on their part to be

performed or satisfied at or prior to the Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement under the 1933 Act has been issued, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to their knowledge, contemplated.

(f) *Chief Financial Officer's Certificate.* At the time of the execution of this Agreement and at the Closing Time, the Representatives shall have received a certificate of the Chief Financial Officer of the Company, dated, respectively, as of the date hereof and as of the Closing Time, in the form attached as Exhibit D hereto, regarding certain financial and operating information of the Transaction Entities and their respective subsidiaries contained in the Registration Statement, the General Disclosure Package and the Prospectus.

(g) *Manager Officers' Certificate.* The Representatives shall have received a certificate of the Chief Executive Officer of the Manager and of the Chief Financial Officer of the Manager, dated the Closing Time, to the effect that (i) the representations and warranties of the Manager contained herein are true and correct with the same force and effect as though expressly made at and as of the Closing Time and (ii) the Manager has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Time.

(h) *Accountant's Comfort Letters.* At the time of the execution of this Agreement, the Representatives shall have received, from each of (i) PricewaterhouseCoopers LLP and (ii) Marcum LLP, a letter, dated such date, in form and substance satisfactory to the Representatives, together with signed or reproduced copies of such letter for each of the other Underwriters, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the General Disclosure Package and the Prospectus.

(i) *Bring-down Comfort Letters.* At the Closing Time, the Representatives shall have received, from each of (i) PricewaterhouseCoopers LLP and (ii) Marcum LLP, a letter, dated the Closing Time, in form and substance satisfactory to the Representatives, together with signed or reproduced copies of such letter for each of the other Underwriters, to the effect that they reaffirm the statements made in the letter furnished pursuant to Section 6(h) hereof, except that the specified date referred to shall be a date not more than three business days prior to the Closing Time.

(j) *Approval of Listing.* At the Closing Time, the Securities shall have been approved for listing on the New York Stock Exchange, subject only to official notice of issuance.

(k) *No Objection.* FINRA has confirmed that it has not raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements relating to the offering of the Securities.

(l) *Lock-up Agreements.* At the date of this Agreement, the Representatives shall have received an agreement substantially in the form of Exhibit C hereto signed by the persons listed on Schedule C hereto.

(m) Conditions to Purchase of Option Securities. In the event that the Underwriters exercise their option provided in Section 2(b) hereof to purchase all or any portion of the Option Securities, the representations and warranties of the Transaction Entities and the Manager contained herein and the statements in any certificates furnished by the Transaction Entities, the Manager or any of their respective subsidiaries hereunder shall be true and correct as of each Date of Delivery and, at the relevant Date of Delivery, the Representatives shall have received:

27

(i) Opinion of Counsel for Company and the Manager. The favorable opinion, dated such Date of Delivery, of Clifford Chance US LLP, counsel for the Company and the Manager, in form and substance reasonably satisfactory to the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 6(b) hereof.

(ii) Opinion of Maryland Counsel for Company. The favorable opinion, dated such Date of Delivery, of Venable LLP, Maryland counsel for the Company, in form and substance reasonably satisfactory to the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 6(c) hereof.

(iii) Opinion of Counsel for Underwriters. The favorable opinion, dated such Date of Delivery, of Sidley Austin LLP, counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 6(d) hereof.

(iv) Company Officers' Certificate. A certificate, dated such Date of Delivery, of the Chief Executive Officer or President of the Company and of the Chief Financial Officer or Chief Accounting Officer of the Company, confirming that the certificate delivered at the Closing Time pursuant to Section 6(e) hereof remains true and correct as of such Date of Delivery.

(v) Chief Financial Officer's Certificate. A certificate, dated such Date of Delivery, of the Chief Financial Officer of the Company, confirming that the certificate delivered at the Closing Time pursuant to Section 6(f) hereof remains true and correct as of such Date of Delivery.

(vi) Manager Officers' Certificate. A certificate, dated such Date of Delivery, of the Chief Executive Officer of the Manager and of the Chief Financial Officer of the Manager, confirming that the certificate delivered at the Closing Time pursuant to Section 6(g) hereof remains true and correct as of such Date of Delivery.

(vii) Bring-down Comfort Letters. Letters from each of (i) PricewaterhouseCoopers LLP and (ii) Marcum LLP, each in form and substance satisfactory to the Representatives and dated such Date of Delivery, together with signed or reproduced copies of such letters for each of the other Underwriters, substantially in the same form and substance as the letters furnished to the Representatives pursuant to Section 6(i) hereof, except that the "specified date" in the letters furnished pursuant to this paragraph shall be a date not more than three business days prior to such Date of Delivery.

(n) Additional Documents. At the Closing Time and at each Date of Delivery, if any, counsel for the Underwriters shall have been furnished with such documents and opinions as it may require for the purpose of enabling it to deliver the opinions requested by the Underwriters as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Transaction Entities and the Manager in connection with the issuance and sale of the Securities as herein contemplated shall be reasonably satisfactory in form and substance to the Underwriters.

(o) Termination of Agreement. If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement, or, in the case of any condition to the purchase of Option Securities on a Date of Delivery which is after the Closing Time, the obligations of the several Underwriters to purchase the relevant Option Securities, may be terminated by the

28

Representatives by notice to the Company at any time at or prior to the Closing Time or such Date of Delivery, as the case may be, and such termination shall be without liability of any party to any other party except as provided in Section 5 and except that Sections 1, 7, 8, 9, 15 and 16 shall survive any such termination and remain in full force and effect.

#### SECTION 7. Indemnification.

(a) Indemnification of Underwriters. Each of the Transaction Entities, jointly and severally, agrees to indemnify and hold harmless each Underwriter, its affiliates (as such term is defined in Rule 501(b) under the 1933 Act (each, an "Affiliate")), its selling agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including the Rule 430A Information, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in (A) any preliminary prospectus, any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), or (B) any materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of the offering of the Securities ("Marketing Materials"), including any roadshow or investor presentations made to investors by the Company (whether in person or electronically), or the omission or alleged omission in any preliminary prospectus, any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) or in any Marketing Materials, as the case may be, of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any Governmental Entity, commenced or threatened, or of any claim whatsoever, in each case based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided, that (subject to Section 7(d) below) any such settlement is effected with the written consent of the Transaction Entities; and

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by the Representatives), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in the Registration Statement (or any amendment thereto), including the Rule 430A Information, or in any preliminary prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), in each case in reliance upon and in conformity with the Underwriter Information.

(b) *Indemnification of Transaction Entities, Directors and Officers.* Each Underwriter severally agrees to indemnify and hold harmless each Transaction Entity, the Company's directors, each

29

---

of the Company's officers who signed the Registration Statement, and each person, if any, who controls either of the Transaction Entities within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act, against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), including the Rule 430A Information, or in any preliminary prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), in each case in reliance upon and in conformity with the Underwriter Information.

(c) *Actions Against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 7(a) hereof, counsel for the indemnified parties shall be selected by the Representatives, and, in the case of parties indemnified pursuant to Section 7(b) hereof, counsel for the indemnified parties shall be selected by the Transaction Entities, as applicable. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any Governmental Entity, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 7 or Section 8 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) *Settlement Without Consent if Failure to Reimburse.* If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 7(a)(ii) or settlement of any claim in connection with any violation referred to in Section 7(e) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

(e) *Indemnification for Reserved Securities.* In connection with the offer and sale of the Reserved Securities, the Company agrees to indemnify and hold harmless the Underwriters, their Affiliates and selling agents and each person, if any, who controls any Underwriter within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act, from and against any and all loss, liability, claim, damage and expense (including, without limitation, any legal or other expenses reasonably incurred in connection with defending, investigating or settling any such action or claim), as incurred, (i) arising out of the violation of any applicable laws or regulations of foreign jurisdictions where Reserved Securities have been offered, (ii) arising out of any untrue statement or alleged untrue

30

---

statement of a material fact contained in any other material prepared by or with the consent of the Company for distribution to Invitees in connection with the offering of the Reserved Securities or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) caused by the failure of any Invitee to pay for and accept delivery of Reserved Securities which have been orally confirmed for purchase by any Invitee by 11:59 P.M. (New York City time) on the date of the Agreement or (iv) related to, or arising out of or in connection with, the offering of the Reserved Securities.

SECTION 8. Contribution. If the indemnification provided for in Section 7 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Transaction Entities, on the one hand, and the Underwriters, on the other hand, from the offering of the Securities pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Transaction Entities, on the one hand, and

of the Underwriters, on the other hand, in connection with the statements or omissions, or in connection with any violation of the nature referred to in Section 7(e) hereof, which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Transaction Entities, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Securities pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Securities pursuant to this Agreement (before deducting expenses) received by the Company, on the one hand, and the total underwriting discount received by the Underwriters, on the other hand, in each case as set forth on the cover of the Prospectus, bear to the aggregate initial public offering price of the Securities as set forth on the cover of the Prospectus.

The relative fault of the Transaction Entities, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Transaction Entities or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission or any violation of the nature referred to in Section 7(e) hereof.

The Transaction Entities and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 8 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 8. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 8 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any Governmental Entity, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 8, no Underwriter shall be required to contribute any amount in excess of the underwriting discounts received by such Underwriter in connection with the Securities underwritten by it and distributed to the public.

31

---

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 8, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each Underwriter's Affiliates and selling agents shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls either of the Transaction Entities within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Transaction Entities. The Underwriters' respective obligations to contribute pursuant to this Section 8 are several in proportion to the number of Initial Securities set forth opposite their respective names in Schedule A hereto and not joint.

SECTION 9. Representations, Warranties and Agreements to Survive. All representations, warranties and agreements contained in this Agreement or in certificates of officers of either of the Transaction Entities, the Manager or any of their respective subsidiaries submitted pursuant hereto shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Underwriter or its Affiliates or selling agents, any person controlling any Underwriter, its officers or directors, or any person controlling either of the Transaction Entities and (ii) delivery of and payment for the Securities.

SECTION 10. Termination of Agreement.

(a) *Termination.* The Representatives may terminate this Agreement, by notice to the Transaction Entities, at any time at or prior to the Closing Time (i) if there has been, in the judgment of the Representatives, since the time of execution of this Agreement or since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, any material adverse change in or affecting the Properties taken as a whole or in the condition, financial or otherwise, or in the earnings, business affairs, management or business prospects of the Transaction Entities and their respective subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, or (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Representatives, impracticable or inadvisable to proceed with the completion of the offering or to enforce contracts for the sale of the Securities, or (iii) if trading in any securities of the Company has been suspended or materially limited by the Commission or the New York Stock Exchange, or (iv) if trading generally on the New York Stock Exchange or the NYSE MKT or in the Nasdaq Global Market has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by order of the Commission, FINRA or any other Governmental Entity, or (v) if a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States or with respect to Clearstream or Euroclear systems in Europe, or (vi) if a banking moratorium has been declared by either U.S. federal or New York authorities.

(b) *Liabilities.* If this Agreement is terminated pursuant to this Section, such termination shall be without liability of any party to any other party except as provided in Section 5 hereof, and provided further that Sections 1, 7, 8, 9, 15 and 16 shall survive such termination and remain in full force and effect.

32

---

SECTION 11. Default by One or More of the Underwriters. If one or more of the Underwriters shall fail at the Closing Time or a Date of Delivery to purchase the Securities which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representatives shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representatives shall not have completed such arrangements within such 24-hour period, then:

(i) if the number of Defaulted Securities does not exceed 10% of the number of Securities to be purchased on such date, each of the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(ii) if the number of Defaulted Securities exceeds 10% of the number of Securities to be purchased on such date, this Agreement or, with respect to each Date of Delivery, if any, which occurs after the Closing Time, the obligation of the Underwriters to purchase, and of the Company to sell, the Option Securities to be purchased and sold on such Date of Delivery shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement or, in the case of a Date of Delivery which is after the Closing Time, which does not result in a termination of the obligation of the Underwriters to purchase and the Company to sell the relevant Option Securities, as the case may be, either the (i) Representatives or (ii) the Company shall have the right to postpone the Closing Time or the relevant Date of Delivery, as the case may be, for a period not exceeding seven days in order to effect any required changes in the Registration Statement, the General Disclosure Package or the Prospectus or in any other documents or arrangements. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 11.

**SECTION 12. Notices.** All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to the Representatives at: (i) Merrill Lynch, Pierce, Fenner & Smith Incorporated, One Bryant Park, New York, New York 10036, attention of Syndicate Department (Fax: (646) 855-3073), with a copy to ECM Legal (Fax: (212) 230-8730), (ii) J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179, attention of Equity Syndicate Desk (Fax: (212) 622-8358) and (iii) Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019, attention of Syndicate Registration (Fax: (646) 834-8133); notices to the Transaction Entities or the Manager shall be directed to them at: c/o iStar Inc., 1114 Avenue of the Americas, New York, New York 10036, attention of Nina B. Matis, Chief Investment and Legal Officer (Fax: (212) 930-9494), with a copy to Clifford Chance US LLP, 31 W. 52<sup>nd</sup> Street, New York, New York 10019, attention of Kathleen L. Werner (Fax: (212) 878-8375).

**SECTION 13. No Advisory or Fiduciary Relationship.** Each of the Transaction Entities and the Manager acknowledges and agrees that (a) the purchase and sale of the Securities pursuant to this Agreement, including the determination of the initial public offering price of the Securities and any related discounts and commissions, is an arm's-length commercial transaction between the Transaction Entities and the Manager, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the offering of the Securities and the process leading thereto, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of either of the Transaction Entities or

33

---

the Manager or any of their respective subsidiaries or their respective stockholders, unitholders, creditors, employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Transaction Entities or the Manager with respect to the offering of the Securities or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising either of the Transaction Entities or the Manager or any of their respective affiliates or subsidiaries on other matters) and no Underwriter has any obligation to the Transaction Entities or the Manager with respect to the offering of the Securities except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of either of the Transaction Entities or the Manager, and (e) the Underwriters have not provided any business, legal, accounting, regulatory or tax advice with respect to the offering of the Securities and each of the Transaction Entities and the Manager has consulted its own business, legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

**SECTION 14. Parties.** This Agreement shall inure to the benefit of and be binding upon the Underwriters, the Transaction Entities and the Manager and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters, the Transaction Entities and the Manager and their respective successors and the Affiliates, selling agents, controlling persons and officers and directors referred to in Sections 7 and 8 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Underwriters, the Transaction Entities and the Manager and their respective successors, and said Affiliates, selling agents, controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities from any Underwriter shall be deemed to be a successor solely by reason of such purchase.

**SECTION 15. Trial by Jury.** Each of the Transaction Entities and the Manager (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders or unitholders, as applicable, and affiliates) and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

**SECTION 16. GOVERNING LAW.** THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

**SECTION 17. TIME.** TIME SHALL BE OF THE ESSENCE OF THIS AGREEMENT. EXCEPT AS OTHERWISE SET FORTH HEREIN, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

**SECTION 18. Partial Unenforceability.** The invalidity or unenforceability of any Section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other Section, paragraph or provision hereof. If any Section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

**SECTION 19. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

34

---



[SIGNATURE PAGE FOLLOWS]

35

---

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Transaction Entities and the Manager a counterpart hereof, whereupon this instrument, along with all counterparts, will become a valid and legally binding agreement among the Underwriters, the Transaction Entities and the Manager in accordance with its terms.

Very truly yours,

SAFETY, INCOME AND GROWTH, INC.

By: /s/ Geoffrey M. Dugan  
Name: Geoffrey M. Dugan  
Title: General Counsel, Corporate & Secretary

SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP

By: SIGOP Gen Par LLC, as General Partner

By: /s/ Geoffrey M. Dugan  
Name: Geoffrey M. Dugan  
Title: General Counsel, Corporate & Secretary

SFTY MANAGER LLC

By: /s/ Geoffrey M. Dugan  
Name: Geoffrey M. Dugan  
Title: General Counsel, Corporate & Secretary

*[Signature Page to Underwriting Agreement]*

---

CONFIRMED AND ACCEPTED,  
as of the date first above written:

MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED

By: /s/ Chris Porter  
Authorized Signatory

J.P. MORGAN SECURITIES LLC

By: /s/ Nathan Brunner  
Authorized Signatory

BARCLAYS CAPITAL INC.

By: /s/ Schecky Schechner  
Authorized Signatory

For themselves and as Representatives of the other Underwriters named in Schedule A hereto.

*[Signature Page to Underwriting Agreement]*

---

The initial public offering price per share for the Securities shall be \$20.00.

The purchase price per share for the Securities to be paid by the several Underwriters shall be \$18.60, being an amount equal to the initial public offering price set forth above less \$1.40 per share, subject to adjustment in accordance with Section 2(b) for distributions declared by the Company and payable on the Initial Securities but not payable on the Option Securities.

<u>Name of Underwriter</u>	<u>Number of Initial Securities</u>
Merrill Lynch, Pierce, Fenner & Smith Incorporated	3,280,000
J.P. Morgan Securities LLC	2,408,750
Barclays Capital Inc.	2,408,750
Citigroup Global Markets Inc.	922,500
Raymond James & Associates, Inc.	922,500
Mizuho Securities USA LLC	307,500
Total	<u>10,250,000</u>

Sch A-1

---

SCHEDULE B-1

Pricing Terms

1. The Company is selling 10,250,00 shares of Common Stock.
2. The Company has granted an option to the Underwriters, severally and not jointly, to purchase up to an additional 1,537,500 shares of Common Stock.
3. The initial public offering price per share for the Securities shall be \$20.00.

Sch B-1-1

---

SCHEDULE B-2

Free Writing Prospectuses

None

Sch B-2-1

---

SCHEDULE B-3

Written Testing-the-Waters Communications

Investor Presentation dated April 2017

Sch B-3-1

---

SCHEDULE C

List of Persons and Entities Subject to Lock-up

Name

iStar Inc.  
SFTY Venture LLC  
SFTY VII-B, LLC  
Jay Sugarman  
Nina B. Matis  
Geoffrey G. Jervis  
Dean S. Adler  
Robin Josephs  
Jay S. Nydick  
Stefan M. Selig

EXHIBIT A

FORM OF OPINION OF COUNSEL TO THE TRANSACTION ENTITIES AND THE MANAGER  
TO BE DELIVERED PURSUANT TO SECTION 6(b)

---

EXHIBIT B

FORM OF OPINION OF MARYLAND COUNSEL TO THE COMPANY  
TO BE DELIVERED PURSUANT TO SECTION 6(c)

Ex B-1

---

EXHIBIT C

June 13, 2017

Merrill Lynch, Pierce, Fenner & Smith  
Incorporated  
One Bryant Park  
New York, New York 10036

J.P. Morgan Securities LLC  
383 Madison Avenue  
New York, New York 10179

Barclays Capital Inc.  
745 Seventh Avenue  
New York, New York 10019

as Representatives of the several  
Underwriters to be named in the  
within-mentioned Underwriting Agreement

Re: Proposed Public Offering by Safety, Income and Growth, Inc.

Dear Sirs:

The undersigned, a stockholder, officer and/or director of Safety, Income and Growth, Inc., a Maryland corporation (the "Company"), understands that Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC and Barclays Capital Inc. (together, the "Representatives") propose to enter into an Underwriting Agreement (the "Underwriting Agreement") with the Company, Safety Income and Growth Operating Partnership LP (the "Operating Partnership") and SFTY Manager LLC providing for the public offering of the Company's shares of common stock, \$0.01 par value per share (the "Common Stock"). In recognition of the benefit that such an offering will confer upon the undersigned as a stockholder, officer and/or director of the Company, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agrees with each underwriter to be named in the Underwriting Agreement that, during the period beginning on the date hereof and ending on the date (the "Expiration Date") that is 180 days from the date of the Underwriting Agreement, the undersigned will not, without the prior written consent of the Representatives, (i) directly or indirectly, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or lend or otherwise transfer or dispose of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for shares of Common Stock (including, without limitation, units of limited partnership interest in the Operating Partnership), whether now owned or hereafter acquired by the undersigned or with respect to which the undersigned has or hereafter acquires the power of disposition (collectively, the "Lock-Up Securities"), or exercise any right with respect to the registration of any of the Lock-Up Securities or cause to be filed any registration statement in connection therewith, under the Securities Act of 1933, as amended, or publicly announce the intention to do any of the foregoing or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Lock-Up Securities, whether any such swap,

Ex C-1

---

other agreement or transaction is to be settled by delivery of shares of Common Stock or other securities, in cash or otherwise.

Notwithstanding the foregoing, and subject to the conditions below, the undersigned may transfer the Lock-Up Securities without the prior written consent of the Representatives, provided that (1) the Representatives receive a signed lock-up agreement for the balance of the period prior to the Expiration Date from each donee, trustee, distributee, or transferee, as the case may be, (2) any such transfer shall not involve a disposition for value, (3) such transfers

are not required to be reported with the Securities and Exchange Commission on Form 4 in accordance with Section 16 of the Securities Exchange Act of 1934, as amended, and (4) the undersigned does not otherwise voluntarily effect any public filing or report regarding such transfers:

- (i) as a *bona fide* gift or gifts; or
- (ii) to any trust for the direct or indirect benefit of the undersigned or the immediate family of the undersigned (for purposes of this lock-up agreement, "immediate family" shall mean any relationship by blood, marriage or adoption, not more remote than first cousin); or
- (iii) as a distribution to limited partners, members or stockholders of the undersigned; or
- (iv) to the undersigned's affiliates or to any investment fund or other entity controlled or managed by the undersigned.

The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Lock-Up Securities except in compliance with the foregoing restrictions.

THIS LOCK-UP AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS LOCK-UP AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

Very truly yours,

Signature: \_\_\_\_\_

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

Ex C-2

---

EXHIBIT D

**CHIEF FINANCIAL OFFICER'S CERTIFICATE  
OF SAFETY, INCOME AND GROWTH, INC.**

Ex D-1

---

**SAFETY, INCOME AND GROWTH, INC.****ARTICLES OF AMENDMENT AND RESTATEMENT**

**FIRST:** Safety, Income and Growth, Inc., a Maryland corporation (the “Corporation”), desires to amend and restate its charter as currently in effect and as hereinafter amended.

**SECOND:** The following provisions are all the provisions of the charter currently in effect and as hereinafter amended:

**ARTICLE I****INCORPORATOR**

Sharon A. Kroupa, whose address is c/o 750 E. Pratt Street, Suite 900, Baltimore, Maryland 21202, being at least 18 years of age, formed a corporation under the general laws of the State of Maryland on October 24, 2016.

**ARTICLE II****NAME**

The name of the corporation (the “Corporation”) is:

Safety, Income and Growth, Inc.

**ARTICLE III****PURPOSE**

The purposes for which the Corporation is formed are to engage in any lawful act or activity (including, without limitation or obligation, engaging in business as a real estate investment trust under the Internal Revenue Code of 1986, as amended, or any successor statute (the “Code”)) for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force. For purposes of the charter of the Corporation (the

“Charter”), “REIT” means a real estate investment trust under Sections 856 through 860 of the Code or any successor provision.

**ARTICLE IV****PRINCIPAL OFFICE IN STATE AND RESIDENT AGENT**

The address of the principal office of the Corporation in the State of Maryland is c/o CSC-Lawyers Incorporating Service Company, 7 St. Paul Street, Suite 820, Baltimore, Maryland 21202. The name of the resident agent of the Corporation in the State of Maryland is CSC-Lawyers Incorporating Service Company, whose post address is c/o 7 St. Paul Street, Suite 820, Baltimore, Maryland 21202. The resident agent is a Maryland corporation.

**ARTICLE V****PROVISIONS FOR DEFINING, LIMITING  
AND REGULATING CERTAIN POWERS OF THE  
CORPORATION AND OF THE STOCKHOLDERS AND DIRECTORS**

Section 5.1 Number of Directors. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors of the Corporation initially shall be two, which number may be increased or decreased only by the Board of Directors pursuant to the Bylaws of the Corporation (the “Bylaws”), but shall never be less than the minimum number required by the Maryland General Corporation Law (the “MGCL”). The names of the directors who shall serve until the first annual meeting of stockholders and until their successors are duly elected and qualify are:

Jay Sugarman

Dean S. Adler

Any vacancy on the Board of Directors may be filled in the manner provided in the Bylaws.

Section 5.2 Extraordinary Actions. Except as specifically provided in Section 5.8 (relating to removal of directors) and in the last sentence of Article VIII, notwithstanding any provision of law permitting or requiring any action to be taken or approved by the affirmative vote of stockholders entitled to cast a greater number of votes, any such action shall be effective and valid if declared advisable by the Board of Directors and taken or approved by the affirmative vote of stockholders entitled to cast a majority of all the votes entitled to be cast on the matter.

Section 5.3 Authorization by Board of Stock Issuance. The Board of Directors may authorize the issuance from time to time of shares of stock of the Corporation of any class or series, whether now or hereafter authorized, or securities or rights convertible into shares of its stock of any class or series, whether now or hereafter authorized, for such consideration as the Board of Directors may deem advisable (or without consideration in the case of a stock split or stock dividend), subject to such restrictions or limitations, if any, as may be set forth in the Charter or the Bylaws.

Section 5.4 Preemptive and Appraisal Rights. Except as may be provided by the Board of Directors in setting the terms of classified or reclassified shares of stock pursuant to Section 6.4 or as may otherwise be provided by a contract approved by the Board of Directors, no holder of shares of stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security of the Corporation which it may issue or sell. Holders of shares of stock shall not be

3

---

entitled to exercise any rights of an objecting stockholder provided for under Title 3, Subtitle 2 of the MGCL or any successor statute unless the Board of Directors, upon such terms and conditions as may be specified by the Board of Directors, determines that such rights apply, with respect to all or any shares of all or any classes or series of stock, to one or more transactions occurring after the date of such determination in connection with which holders of such shares would otherwise be entitled to exercise such rights.

Section 5.5 Indemnification. The Corporation shall have the power, to the maximum extent permitted by Maryland law in effect from time to time, to obligate itself to indemnify, and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding to, (a) any individual who is a present or former director or officer of the Corporation or (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, member, manager, or trustee of another corporation, real estate investment trust, limited liability company, joint venture, trust, employee benefit plan or any other enterprise from and against any claim or liability to which such person may become subject or which such person may incur by reason of his or her service in such capacity. The Corporation shall have the power, with the approval of the Board of Directors, to provide such indemnification and advancement of expenses to a person who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation.

Section 5.6 Determinations by Board. The determination as to any of the following matters, made by or pursuant to the direction of the Board of Directors, shall be final and conclusive and shall be binding upon the Corporation and every holder of shares of its stock: the amount of the net income of the Corporation for any period and the amount of assets at any

4

---

time legally available for the payment of dividends, acquisition of its stock or the payment of other distributions on its stock; the amount of paid-in surplus, net assets, other surplus, cash flow, funds from operations, adjusted funds from operations, net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been set aside, paid or discharged); any interpretation or resolution of any ambiguity with respect to any provision of the Charter (including any of the terms, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of any shares of any class or series of stock of the Corporation) or of the Bylaws; the number of shares of stock of any class or series that the Corporation has authority to issue; the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation or of any shares of stock of the Corporation; any matter relating to the acquisition, holding and disposition of any assets by the Corporation; any interpretation of the terms and conditions of one or more agreements with any person, corporation, association, company, trust, partnership (limited or general) or other entity; the compensation of directors, officers, employees or agents of the Corporation; or any other matter relating to the business and affairs of the Corporation or required or permitted by applicable law, the Charter or Bylaws or otherwise to be determined by the Board of Directors.

Section 5.7 REIT Qualification. The Corporation intends to elect (or has elected) to qualify for federal income tax treatment as a REIT beginning with its initial taxable year ending (or ended) December 31, 2017 and, accordingly, the Board of Directors shall use its

5

---

reasonable best efforts to take such actions as are necessary or appropriate to preserve the status of the Corporation as a REIT; however, if the Board of Directors determines that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT, the Board of Directors may revoke or otherwise terminate the Corporation's REIT election pursuant to Section 856(g) of the Code. The Board of Directors, in its sole and absolute discretion, also may (a) determine that compliance with any restriction or limitation on stock ownership and transfers set forth in Article VII is no longer required for REIT qualification and (b) make any other determination or take any other action pursuant to Article VII.

Section 5.8 Removal of Directors. Subject to the rights of holders of shares of one or more classes or series of Preferred Stock (as defined below) to elect or remove one or more directors, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. For the purpose of this paragraph, "cause" shall mean, with respect to any particular director, conviction of a felony or a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to the Corporation through bad faith or active and deliberate dishonesty.

Section 5.9 Corporate Opportunities. The Corporation shall have the power, by resolution of the Board of Directors, to renounce any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, business opportunities or classes or categories of business opportunities that are presented to the Corporation or developed by or presented to one or more directors or officers of the Corporation.

Section 5.9 Subtitle 8. In accordance with Section 3-802(c) of the MGCL, the Corporation is prohibited from electing to be subject to any provision contained in Subtitle 8

of Title 3 of the MGCL, unless such election is approved by the affirmative vote of a majority of the votes cast on the matter by stockholders entitled to vote generally in the election of directors.

## ARTICLE VI

### STOCK

Section 6.1 Authorized Shares. The Corporation has authority to issue 450,000,000 shares of stock, consisting of 400,000,000 shares of Common Stock, \$0.01 par value per share ("Common Stock"), and 50,000,000 shares of Preferred Stock, \$0.01 par value per share ("Preferred Stock"). The aggregate par value of all authorized shares of stock having par value is \$4,500,000. If shares of one class of stock are classified or reclassified into shares of another class of stock pursuant to Section 6.2, 6.3 or 6.4 of this Article VI, the number of authorized shares of the former class shall be automatically decreased and the number of shares of the latter class shall be automatically increased, in each case by the number of shares so classified or reclassified, so that the aggregate number of shares of stock of all classes that the Corporation has authority to issue shall not be more than the total number of shares of stock set forth in the first sentence of this paragraph. The Board of Directors, with the approval of a majority of the entire Board and without any action by the stockholders of the Corporation, may amend the Charter from time to time to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that the Corporation has authority to issue.

Section 6.2 Common Stock. Subject to the provisions of Article VII and except as may otherwise be specified in the Charter, each share of Common Stock shall entitle the

holder thereof to one vote. The Board of Directors may reclassify any unissued shares of Common Stock from time to time into one or more classes or series of stock.

Section 6.3 Preferred Stock. The Board of Directors may classify any unissued shares of Preferred Stock and reclassify any previously classified but unissued shares of Preferred Stock of any class or series from time to time, into one or more classes or series of stock.

Section 6.4 Classified or Reclassified Shares. Prior to the issuance of classified or reclassified shares of any class or series of stock, the Board of Directors by resolution shall: (a) designate that class or series to distinguish it from all other classes and series of stock of the Corporation; (b) specify the number of shares to be included in the class or series; (c) set or change, subject to the provisions of Article VII and subject to the express terms of any class or series of stock of the Corporation outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each class or series; and (d) cause the Corporation to file articles supplementary with the State Department of Assessments and Taxation of Maryland (the "SDAT"). Any of the terms of any class or series of stock set or changed pursuant to clause (c) of this Section 6.4 may be made dependent upon facts or events ascertainable outside the Charter (including determinations by the Board of Directors or other facts or events within the control of the Corporation) and may vary among holders thereof, provided that the manner in which such facts, events or variations shall operate upon the terms of such class or series of stock is clearly and expressly set forth in the articles supplementary or other Charter document.

Section 6.5 Action by Stockholders. Any action required or permitted to be taken at any meeting of the holders of Common Stock entitled to vote generally in the election of directors may be taken without a meeting by consent, in writing or by electronic transmission, in any manner and by any vote permitted by the MGCL and set forth in the Bylaws.

Section 6.6 Charter and Bylaws. The rights of all stockholders and the terms of all stock of the Corporation are subject to the provisions of the Charter and the Bylaws. The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of the Bylaws. In the event that the power to adopt, alter or repeal the Bylaws is concurrently vested in the stockholders, the Board of Directors, in its sole and absolute discretion, shall determine the manner and the vote, including any supermajority vote, by which the stockholders may adopt, alter or repeal the Bylaws.

Section 6.7 Distributions. The Board of Directors from time to time may authorize the Corporation to declare and pay to stockholders such dividends or other distributions in cash or other assets of the Corporation or in securities of the Corporation, including in shares of one class or series of the Corporation's stock payable to holders of shares of another class or series of stock of the Corporation, or from any other source as the Board of Directors in its sole and absolute discretion shall determine. The exercise of the powers and rights of the Board of Directors pursuant to this Section 6.7 shall be subject to the provisions of any class or series of shares of the Corporation's stock at the time outstanding.

## ARTICLE VII

### RESTRICTION ON TRANSFER AND OWNERSHIP OF SHARES

Section 7.1 Definitions. For the purpose of this Article VII, the following terms shall have the following meanings:

**Aggregate Stock Ownership Limit.** The term “Aggregate Stock Ownership Limit” shall mean 9.8% percent (in value or number of shares, whichever is more restrictive) of the aggregate of the outstanding shares of Capital Stock, or such other percentage determined by the Board of Directors in accordance with Section 7.2.8 of the Charter.

**Beneficial Ownership.** The term “Beneficial Ownership” shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code. The terms “Beneficial Owner,” “Beneficially Owns” and “Beneficially Owned” shall have the correlative meanings.

**Business Day.** The term “Business Day” shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in New York City are authorized or required by law, regulation or executive order to close.

**Capital Stock.** The term “Capital Stock” shall mean all classes or series of stock of the Corporation, including, without limitation, Common Stock and Preferred Stock.

**Charitable Beneficiary.** The term “Charitable Beneficiary” shall mean one or more beneficiaries of the Trust as determined pursuant to Section 7.3.6, provided that each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

10

---

**Common Stock Ownership Limit.** The term “Common Stock Ownership Limit” shall mean 9.8% percent (in value or in number of shares, whichever is more restrictive) of the aggregate of the outstanding shares of Common Stock of the Corporation, or such other percentage determined by the Board of Directors in accordance with Section 7.2.8 of the Charter.

**Constructive Ownership.** The term “Constructive Ownership” shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code. The terms “Constructive Owner,” “Constructively Owns” and “Constructively Owned” shall have the correlative meanings.

**Excepted Holder.** The term “Excepted Holder” shall mean a stockholder of the Corporation for whom an Excepted Holder Limit is created by the Charter or by the Board of Directors pursuant to Section 7.2.7.

**Excepted Holder Limit.** The term “Excepted Holder Limit” shall mean, provided that the affected Excepted Holder agrees to comply with the requirements established by the Board of Directors pursuant to Section 7.2.7 and subject to adjustment pursuant to Section 7.2.8 (unless otherwise provided by the terms and conditions of the agreements and undertakings entered into between such Excepted Holder and the Corporation in connection with the establishment of the Excepted Holder Limit for such Excepted Holder), the percentage limit established by the Board of Directors pursuant to Section 7.2.7.

**Initial Date.** The term “Initial Date” shall mean the earlier of (i) January 1, 2018 or (ii) the date of the closing of the issuance of shares of Common Stock pursuant to the initial underwritten public offering of the Corporation.

11

---

**Market Price.** The term “Market Price” on any date shall mean, with respect to any class or series of outstanding shares of Capital Stock, the Closing Price for such Capital Stock on such date. The “Closing Price” on any date shall mean the last sale price for such Capital Stock, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such Capital Stock, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the NYSE or, if such Capital Stock is not listed or admitted to trading on the NYSE, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such Capital Stock is listed or admitted to trading or, if such Capital Stock is not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the National Association of Securities Dealers, Inc. Automated Quotation System or, if such system is no longer in use, the principal other automated quotation system that may then be in use or, if such Capital Stock is not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Capital Stock selected by the Board of Directors or, in the event that no trading price is available for such Capital Stock, the fair market value of the Capital Stock, as determined by the Board of Directors.

**NYSE.** The term “NYSE” shall mean the New York Stock Exchange.

**Person.** The term “Person” shall mean an individual, corporation, partnership, limited liability company, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within

12

---

the meaning of Section 509(a) of the Code, joint stock company or other entity and also includes a group as that term is used for purposes of Section 13(d) (3) of the Securities Exchange Act of 1934, as amended, and a group to which an Excepted Holder Limit applies.

**Prohibited Owner.** The term “Prohibited Owner” shall mean, with respect to any purported Transfer, any Person who, but for the provisions of this Article VII, would Beneficially Own or Constructively Own shares of Capital Stock in violation of Section 7.2.1, and if appropriate in the context,



shall also mean any Person who would have been the record owner of the shares that the Prohibited Owner would have so owned.

Restriction Termination Date. The term “Restriction Termination Date” shall mean the first day after the Initial Date on which the Board of Directors determines pursuant to Section 5.7 of the Charter that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT or that compliance with the restrictions and limitations on Beneficial Ownership, Constructive Ownership and Transfers of shares of Capital Stock set forth herein is no longer required in order for the Corporation to qualify as a REIT.

Transfer. The term “Transfer” shall mean any issuance, sale, transfer, gift, assignment, devise or other disposition, as well as any other event that causes any Person to acquire Beneficial Ownership or Constructive Ownership, or any agreement to take any such action or cause any such event, of Capital Stock or the right to vote or receive dividends on Capital Stock, including (a) the granting or exercise of any option (or any disposition of any option), (b) any disposition of any securities or rights convertible into or exchangeable for Capital Stock or any interest in Capital Stock or any exercise of any such conversion or exchange right and (c) Transfers of interests in other entities that result in changes in Beneficial Ownership or Constructive Ownership of Capital Stock; in each case, whether voluntary or involuntary,

13

---

whether owned of record, Constructively Owned or Beneficially Owned and whether by operation of law or otherwise. The terms “Transferring” and “Transferred” shall have the correlative meanings.

Trust. The term “Trust” shall mean any trust provided for in Section 7.3.1.

Trustee. The term “Trustee” shall mean the Person unaffiliated with the Corporation and a Prohibited Owner that is appointed by the Corporation to serve as trustee of the Trust.

## Section 7.2 Capital Stock.

Section 7.2.1 Ownership Limitations. During the period commencing on the Initial Date and prior to the Restriction Termination Date, but subject to Section 7.4:

(a) Basic Restrictions.

(i) (1) No Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Aggregate Stock Ownership Limit, (2) no Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own shares of Common Stock in excess of the Common Stock Ownership Limit and (3) no Excepted Holder shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Excepted Holder Limit for such Excepted Holder.

(ii) No Person shall Beneficially Own or Constructively Own shares of Capital Stock to the extent that such Beneficial Ownership or Constructive Ownership of Capital Stock would result in the Corporation being “closely held” within the meaning of Section 856(h) of the Code (without regard to whether the ownership interest is held during the last half of a taxable year), or otherwise failing to qualify as a REIT (including, without limitation, Beneficial Ownership or Constructive Ownership that would result in the

14

---

Corporation owning (actually or Constructively) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if the income derived by the Corporation from such tenant would cause the Corporation to fail to satisfy any of the gross income requirements of Section 856(c) of the Code).

(iii) Any Transfer of shares of Capital Stock that, if effective, would result in the Capital Stock being beneficially owned by less than 100 Persons (determined under the principles of Section 856(a)(5) of the Code) shall be void ab initio, and the intended transferee shall acquire no rights in such shares of Capital Stock.

(b) Transfer in Trust. If any Transfer of shares of Capital Stock occurs which, if effective, would result in any Person Beneficially Owning or Constructively Owning shares of Capital Stock in violation of Section 7.2.1(a)(i) or (ii),

(i) then that number of shares of the Capital Stock the Beneficial Ownership or Constructive Ownership of which otherwise would cause such Person to violate Section 7.2.1(a)(i) or (ii) (rounded up to the nearest whole share) shall be automatically transferred to a Trust for the benefit of a Charitable Beneficiary, as described in Section 7.3, effective as of the close of business on the Business Day prior to the date of such Transfer, and such Person shall acquire no rights in such shares; or

(ii) if the transfer to the Trust described in clause (i) of this sentence would not be effective for any reason to prevent the violation of Section 7.2.1(a)(i) or (ii), then the Transfer of that number of shares of Capital Stock that otherwise would cause any Person to violate Section 7.2.1(a)(i) or (ii) shall be void ab initio, and the intended transferee shall acquire no rights in such shares of Capital Stock.

15

---

(iii) To the extent that, upon a transfer of shares of Capital Stock pursuant to this Section 7.2.1(b), a violation of any provision of this Article VII would nonetheless be continuing (for example where the ownership of shares of Capital Stock by a single Trust would violate the 100 stockholder requirement applicable to REITs), then shares of Capital Stock shall be transferred to that number of Trusts, each having a distinct Trustee and a Charitable Beneficiary or Charitable Beneficiaries that are distinct from those of each other Trust, such that there is no violation of any provision of this Article VII.

Section 7.2.2 Remedies for Breach. If the Board of Directors shall at any time determine that a Transfer or other event has taken place that results in a violation of Section 7.2.1 or that a Person intends to acquire or has attempted to acquire Beneficial Ownership or Constructive Ownership of any shares of Capital Stock in violation of Section 7.2.1 (whether or not such violation is intended), the Board of Directors shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or other event, including, without limitation, causing the Corporation to redeem shares, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer or other event; provided, however, that any Transfer or attempted Transfer or other event in violation of Section 7.2.1 shall automatically result in the transfer to the Trust described above, and, where applicable, such Transfer (or other event) shall be void ab initio as provided above irrespective of any action (or non-action) by the Board of Directors.

Section 7.2.3 Notice of Restricted Transfer. Any Person who acquires or attempts or intends to acquire Beneficial Ownership or Constructive Ownership of shares of Capital Stock that will or may violate Section 7.2.1(a) or any Person who would have owned shares of Capital Stock that resulted in a transfer to the Trust pursuant to the provisions of

16

---

Section 7.2.1(b) shall immediately give written notice to the Corporation of such event or, in the case of such a proposed or attempted transaction, give at least 15 days prior written notice, and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer on the Corporation's status as a REIT.

Section 7.2.4 Owners Required To Provide Information. From the Initial Date and prior to the Restriction Termination Date:

(a) every owner of five percent or more (or such lower percentage as required by the Code or the Treasury Regulations promulgated thereunder) of the outstanding shares of Capital Stock at any time during a taxable year of the Company, within 30 days after the end of such taxable year, shall give written notice to the Corporation stating the name and address of such owner, the number of shares of Capital Stock Beneficially Owned and a description of the manner in which such shares are held. Each such owner shall provide to the Corporation such additional information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's status as a REIT and to ensure compliance with the Aggregate Stock Ownership Limit and the Common Stock Ownership Limit; and

(b) each Person who is a Beneficial Owner or Constructive Owner of Capital Stock and each Person (including the stockholder of record) who is holding Capital Stock for a Beneficial Owner or Constructive Owner shall promptly provide to the Corporation such information as the Corporation may request, in order to determine the Corporation's status as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance.

17

---

Section 7.2.5 Remedies Not Limited. Subject to Section 5.7 of the Charter, nothing contained in this Section 7.2 shall limit the authority of the Board of Directors to take such other action as it deems necessary or advisable to protect the Corporation in preserving the Corporation's status as a REIT.

Section 7.2.6 Ambiguity. In the case of an ambiguity in the application of any of the provisions of this Section 7.2, Section 7.3 or any definition contained in Section 7.1, the Board of Directors may determine the application of the provisions of this Section 7.2 or Section 7.3 or any such definition with respect to any situation based on the facts known to it. In the event Section 7.2 or Section 7.3 requires an action by the Board of Directors and the Charter fails to provide specific guidance with respect to such action, the Board of Directors may determine the action to be taken so long as such action is not contrary to the provisions of Sections 7.1, 7.2 or 7.3. Absent a decision to the contrary by the Board of Directors, if a Person would have (but for the remedies set forth in Section 7.2.2) acquired Beneficial Ownership or Constructive Ownership of Capital Stock in violation of Section 7.2.1, such remedies (as applicable) shall apply first to the shares of Capital Stock which, but for such remedies, would have been Beneficially Owned or Constructively Owned (but not actually owned) by such Person, pro rata among the Persons who actually own such shares of Capital Stock based upon the relative number of the shares of Capital Stock held by each such Person.

Section 7.2.7 Exceptions.

(a) Subject to Section 7.2.1(a)(ii), the Board of Directors, may exempt (prospectively or retroactively) a Person from the Aggregate Stock Ownership Limit, the Common Stock Ownership Limit and the provisions of Section 7.2.8, as the case may be, and may establish or increase an Excepted Holder Limit for such Person if:

18

---

(i) the Board of Directors obtains such representations and undertakings from such Person as are reasonably necessary for the Board to ascertain that no individual's Beneficial or Constructive Ownership of such shares of Capital Stock will violate Section 7.2.1(a)(ii);

(ii) such Person provides the Board of Directors with information including such representations and undertakings satisfactory to the Board of Directors in its reasonable discretion, that demonstrate such Person's Beneficial Ownership or Constructive Ownership of stock in excess of the Aggregate Stock Ownership Limit or Common Stock Ownership Limit would not result in the Corporation owning (directly or indirectly) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if the income derived by the Corporation (either directly or indirectly through one or more partnerships or limited liability companies) from such tenant for the taxable year of the Corporation during which such determination is being made would reasonably be expected to equal or exceed the lesser of (a) one percent (1%) of the Corporation's gross income (as determined for purposes of Section 856(c) of the Code), or (b) an amount that would cause the Corporation to fail to satisfy any of the gross income requirements of Section 856(c) of the Code; and

(iii) such Person agrees that any violation or attempted violation of such representations or undertakings (or other action which is contrary to the restrictions contained in Sections 7.2.1 through 7.2.6) will result in such shares of Capital Stock being automatically transferred to a Trust in accordance with Sections 7.2.1(b) and 7.3.

(b) Prior to granting any exception pursuant to Section 7.2.7(a), the Board of Directors may require a ruling from the Internal Revenue Service, or an opinion of counsel, in either case in form and substance satisfactory to the Board of Directors, as

19

---

it may deem necessary or advisable in order to determine or ensure the Corporation's status as a REIT. Notwithstanding the receipt of any ruling or opinion, the Board of Directors may impose such conditions or restrictions as it deems appropriate in connection with granting such exception.

(c) Subject to Section 7.2.1(a)(ii), an underwriter which participates in a public offering or a private placement of Capital Stock (or securities convertible into or exchangeable for Capital Stock) may Beneficially Own or Constructively Own shares of Capital Stock (or securities convertible into or exchangeable for Capital Stock) in excess of the Aggregate Stock Ownership Limit, the Common Stock Ownership Limit, or both such limits, but only to the extent necessary to facilitate such public offering or private placement.

(d) The Board of Directors may only reduce the Excepted Holder Limit for an Excepted Holder: (1) with the written consent of such Excepted Holder at any time, or (2) pursuant to the terms and conditions of the agreements and undertakings entered into with such Excepted Holder in connection with the establishment of the Excepted Holder Limit for that Excepted Holder. No Excepted Holder Limit shall be reduced to a percentage that is less than the Common Stock Ownership Limit.

Section 7.2.8 Increase or Decrease in Common Stock Ownership or Aggregate Stock Ownership Limits. Subject to Section 7.2.1(a)(ii) and this Section 7.2.8, the Board of Directors may from time to time increase or decrease the Common Stock Ownership Limit and the Aggregate Stock Ownership Limit for one or more Persons and increase or decrease the Common Stock Ownership Limit and the Aggregate Stock Ownership Limit for all other Persons. No decreased Common Stock Ownership Limit or Aggregate Stock Ownership Limit will be effective for any Person whose percentage of ownership of Capital Stock is in

20

---

excess of such decreased Common Stock Ownership Limit or Aggregate Stock Ownership Limit, as applicable, until such time as such Person's percentage of ownership of Capital Stock equals or falls below the decreased Common Stock Ownership Limit or Aggregate Stock Ownership Limit, as applicable; provided, however, any further acquisition of Capital Stock by any such Person (other than a Person for whom an exemption has been granted pursuant to Section 7.2.7(a) or an Excepted Holder) in excess of the Capital Stock owned by such person on the date the decreased Common Stock Ownership Limit or Aggregate Stock Ownership Limit, as applicable, became effective will be in violation of the Common Stock Ownership Limit or Aggregate Stock Ownership Limit. No increase to the Common Stock Ownership Limit or Aggregate Stock Ownership Limit may be approved if the new Common Stock Ownership Limit and/or Aggregate Stock Ownership Limit would allow five or fewer Persons to Beneficially Own, in the aggregate more than 49.9% in value of the outstanding Capital Stock.

Section 7.2.9 Legend. Each certificate for shares of Capital Stock, if certificated, shall bear substantially the following legend:

The shares represented by this certificate are subject to restrictions on Beneficial Ownership and Constructive Ownership and Transfer for the purpose, among others, of the Corporation's maintenance of its status as a REIT under the Internal Revenue Code of 1986, as amended (the "Code"). Subject to certain further restrictions and except as expressly provided in the Corporation's Charter, (i) no Person may Beneficially Own or Constructively Own shares of the Corporation's Common Stock in excess of the Common Stock Ownership Limit unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (ii) no Person may Beneficially Own or Constructively Own shares of Capital Stock of the Corporation in excess of the Aggregate Stock Ownership Limit, unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (iii) no Person may Beneficially Own or Constructively Own Capital Stock that would result in the Corporation being "closely held" under Section 856(h) of the Code or otherwise cause the Corporation to fail to qualify as a REIT; and

21

---

(iv) no Person may Transfer shares of Capital Stock if such Transfer would result in the Capital Stock of the Corporation being owned by fewer than 100 Persons. Any Person who Beneficially Owns or Constructively Owns or attempts or intends to Beneficially Own or Constructively Own shares of Capital Stock which cause or will cause a Person to Beneficially Own or Constructively Own shares of Capital Stock in excess or in violation of the above limitations must immediately notify the Corporation. If any of the restrictions on transfer or ownership provided in (i) or (ii) above are violated, the shares of Capital Stock in excess or in violation of the above limitations will be automatically transferred to a Trustee of a Trust for the benefit of one or more Charitable Beneficiaries. In addition, the Corporation may redeem shares upon the terms and conditions specified by the Board of Directors in its sole and absolute discretion if the Board of Directors determines that ownership or a Transfer or other event may violate the restrictions described above. Furthermore, if the ownership restrictions provided in (iv) above would be violated or upon the occurrence of certain events, attempted Transfers in violation of the restrictions described above may be void ab initio. All capitalized terms in this legend have the meanings defined in the Charter of the Corporation, as the same may be amended from time to time, a copy of which, including the restrictions on transfer and ownership, will be furnished to each holder of shares of Capital Stock of the Corporation on request and without charge. Requests for such a copy may be directed to the Secretary of the Corporation at its Principal Office.

Instead of the foregoing legend, the certificate or any notice in lieu of a certificate may state that the Corporation will furnish a full statement about certain restrictions on ownership and transfer of the shares to a stockholder on request and without charge.

### Section 7.3 Transfer of Capital Stock in Trust.

Section 7.3.1 Ownership in Trust. Upon any purported Transfer or other event described in Section 7.2.1(b) that would result in a transfer of shares of Capital Stock to a Trust, such shares of Capital Stock shall be deemed to have been transferred to the Trustee as trustee of a Trust for the exclusive benefit of one or more Charitable Beneficiaries. Such transfer to the Trustee shall be deemed to be effective as of the close of business on the Business Day

22

---

prior to the purported Transfer or other event that results in the transfer to the Trust pursuant to Section 7.2.1(b). The Trustee shall be appointed by the Corporation and shall be a Person unaffiliated with the Corporation and any Prohibited Owner. Each Charitable Beneficiary shall be designated by the Corporation as provided in Section 7.3.6.

Section 7.3.2 Status of Shares Held by the Trustee. Shares of Capital Stock held by the Trustee shall be issued and outstanding shares of Capital Stock. The Prohibited Owner shall have no rights in the shares held by the Trustee. The Prohibited Owner shall not benefit economically from ownership of any shares held in trust by the Trustee, shall have no rights to dividends or other distributions and shall not possess any rights to vote or other rights attributable to the shares held in the Trust.

Section 7.3.3 Dividend and Voting Rights. The Trustee shall have all voting rights and rights to dividends or other distributions with respect to shares of Capital Stock held in the Trust, which rights shall be exercised for the exclusive benefit of the Charitable Beneficiary. Any dividend or other distribution paid prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trustee shall be paid by the recipient of such dividend or other distribution to the Trustee upon demand and any dividend or other distribution authorized but unpaid shall be paid when due to the Trustee. Any dividend or other distribution so paid to the Trustee shall be held in trust for the Charitable Beneficiary. The Prohibited Owner shall have no voting rights with respect to shares of Capital Stock held in the Trust and, subject to Maryland law, effective as of the date that the shares of Capital Stock have been transferred to the Trust, the Trustee shall have the authority (at the Trustee's sole and absolute discretion) (i) to rescind as void any vote cast by a Prohibited Owner prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trust

23

---

and (ii) to recast such vote; provided, however, that if the Corporation has already taken irreversible corporate action, then the Trustee shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of this Article VII, until the Corporation has received notification that shares of Capital Stock have been transferred into a Trust, the Corporation shall be entitled to rely on its stock transfer and other stockholder records for purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes and determining the other rights of stockholders.

Section 7.3.4 Sale of Shares by Trustee. Within 20 days of receiving notice from the Corporation that shares of Capital Stock have been transferred to the Trust, the Trustee of the Trust shall sell the shares held in the Trust to a person, designated by the Trustee, whose ownership of the shares will not violate the ownership limitations set forth in Section 7.2.1(a). Upon such sale, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner and to the Charitable Beneficiary as provided in this Section 7.3.4. The Prohibited Owner shall receive the lesser of (1) the price paid by the Prohibited Owner for the shares or, if the Prohibited Owner did not give value for the shares in connection with the event causing the shares to be held in the Trust (e.g., in the case of a gift, devise or other such transaction), the Market Price of the shares on the day of the event causing the shares to be held in the Trust and (2) the price per share received by the Trustee (net of any commissions and other expenses of sale) from the sale or other disposition of the shares held in the Trust. The Trustee may reduce the amount payable to the Prohibited Owner by the amount of dividends and distributions which have been paid to the Prohibited Owner and are owed by the Prohibited Owner to the Trustee pursuant to Section 7.3.3 of this Article VII. Any net sales proceeds in excess of the amount payable to the

24

---

Prohibited Owner shall be immediately paid to the Charitable Beneficiary. If, prior to the discovery by the Corporation that shares of Capital Stock have been transferred to the Trustee, such shares are sold by a Prohibited Owner, then (i) such shares shall be deemed to have been sold on behalf of the Trust and (ii) to the extent that the Prohibited Owner received an amount for such shares that exceeds the amount that such Prohibited Owner was entitled to receive pursuant to this Section 7.3.4, such excess shall be paid to the Trustee upon demand.

Section 7.3.5 Purchase Right in Stock Transferred to the Trustee. Shares of Capital Stock transferred to the Trustee shall be deemed to have been offered for sale to the Corporation, or its designee, at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the Trust (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation may reduce the amount payable to the Prohibited Owner by the amount of dividends and other distributions which has been paid to the Prohibited Owner and is owed by the Prohibited Owner to the Trustee pursuant to Section 7.3.3 of this Article VII. The Corporation may pay the amount of such reduction to the Trustee for the benefit of the Charitable Beneficiary. The Corporation shall have the right to accept such offer until the Trustee has sold the shares held in the Trust pursuant to Section 7.3.4. Upon such a sale to the Corporation, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner.

Section 7.3.6 Designation of Charitable Beneficiaries. By written notice to the Trustee, the Corporation shall designate one or more nonprofit organizations to be the Charitable Beneficiary or Charitable Beneficiaries of the interest in the Trust such that the shares

25

---

of Capital Stock held in the Trust would not violate the restrictions set forth in Section 7.2.1(a) in the hands of such Charitable Beneficiary or Charitable Beneficiaries. Neither the failure of the Corporation to make such designation nor the failure of the Corporation to appoint the Trustee before the automatic transfer provided in Section 7.2.1(b) shall make such transfer ineffective, provided that the Corporation thereafter makes such designation and appointment.

Section 7.4 NYSE Transactions. Nothing in this Article VII shall preclude the settlement of any transaction entered into through the facilities of the NYSE or any other national securities exchange or automated inter-dealer quotation system. The fact that the settlement of any transaction occurs shall not negate the effect of any other provision of this Article VII and any transferee in such a transaction shall be subject to all of the provisions and limitations set forth in this Article VII.

Section 7.5 Enforcement. The Corporation is authorized specifically to seek equitable relief, including injunctive relief, to enforce the provisions of this Article VII.

Section 7.6 Non-Waiver. No delay or failure on the part of the Corporation or the Board of Directors in exercising any right hereunder shall operate as a waiver of any right of the Corporation or the Board of Directors, as the case may be, except to the extent specifically waived in writing.

Section 7.7 Severability. If any provision of this Article VII or any application of any such provision is determined to be invalid by any federal or state court having jurisdiction over the issues, the validity of the remaining provisions shall not be affected and other applications of such provisions shall be affected only to the extent necessary to comply with the determination of such court.

26

---

## ARTICLE VIII

### AMENDMENTS

The Corporation reserves the right from time to time to make any amendment to the Charter, now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in the Charter, of any shares of outstanding stock. All rights and powers conferred by the Charter on stockholders, directors and officers are granted subject to this reservation. Except as set forth below and except for those amendments permitted to be made without stockholder approval under Maryland law or by specific provision in the Charter, any amendment to the Charter shall be valid only if declared advisable by the Board of Directors and approved by the affirmative vote of stockholders entitled to cast a majority of all the votes entitled to be cast on the matter. Any amendment to Section 5.8, Article VII or to this sentence of the Charter shall be valid only if declared advisable by the Board of Directors and approved by the affirmative vote of stockholders entitled to cast at least two-thirds of all the votes entitled to be cast on the matter.

## ARTICLE IX

### LIMITATION OF LIABILITY

To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers of a corporation, no present or former director or officer of the Corporation shall be liable to the Corporation or its stockholders for money damages. Neither the amendment nor repeal of this Article IX, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Article IX, shall apply to or affect in any respect the applicability of the preceding sentence with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

27

---

THIRD: The amendment to and restatement of the charter as hereinabove set forth have been duly advised by the Board of Directors and approved by the stockholders of the Corporation as required by law.

FOURTH: The current address of the principal office of the Corporation is as set forth in Article IV of the foregoing amendment and restatement of the charter.

FIFTH: The name and address of the Corporation's current resident agent are as set forth in Article IV of the foregoing amendment and restatement of the charter.

SIXTH: The number of directors of the Corporation and the names of those currently in office are as set forth in Article V of the foregoing amendment and restatement of the charter.

SEVENTH: The total number of shares of stock which the Corporation had authority to issue immediately prior to this amendment and restatement was 100,000, consisting of 100,000 shares of Common Stock, \$0.01 par value per share. The aggregate par value of all shares of stock having par value was \$1,000.

EIGHTH: The total number of shares of stock which the Corporation has authority to issue pursuant to the foregoing amendment and restatement of the charter is 450,000,000, consisting of 400,000,000 shares of Common Stock, \$0.01 par value per share, and 50,000,000 shares of Preferred Stock, \$0.01 par value per share. The aggregate par value of all authorized shares of stock having par value is \$4,500,000.

NINTH: The undersigned Chief Executive Officer acknowledges these Articles of Amendment and Restatement to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned Chief Executive Officer



**SAFETY, INCOME AND GROWTH, INC.****BYLAWS****June 27, 2017****ARTICLE I****OFFICES**

Section 1. **PRINCIPAL OFFICE.** The principal office of Safety, Income and Growth, Inc. (the "Corporation") in the State of Maryland shall be located at such place as the Board of Directors may designate.

Section 2. **ADDITIONAL OFFICES.** The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

**ARTICLE II****MEETINGS OF STOCKHOLDERS**

Section 1. **PLACE.** All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set in accordance with these Bylaws and stated in the notice of the meeting.

Section 2. **ANNUAL MEETING.** An annual meeting of stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on the date and at the time and place set by the Board of Directors.

Section 3. **SPECIAL MEETINGS.**

(a) **General.** Each of the chairman of the board, chief executive officer, president and Board of Directors may call a special meeting of stockholders. Except as provided in subsection (b)(4) of this Section 3, a special meeting of stockholders shall be held on the date and at the time and place set by the chairman of the board, chief executive officer, president or Board of Directors, whoever has called the meeting. Subject to subsection (b) of this Section 3, a special meeting of stockholders shall also be called by the secretary of the Corporation to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast on such matter at such meeting.

(b) **Stockholder-Requested Special Meetings.** (1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice shall set forth the purpose of

---

the meeting and the matters proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their agents duly authorized in a writing accompanying the Record Date Request Notice), shall bear the date of signature of each such stockholder (or such agent) and shall set forth all information relating to each such stockholder, each individual whom the stockholder proposes to nominate for election or reelection as a director and each matter proposed to be acted on at the meeting that would be required to be disclosed in connection with the solicitation of proxies for the election of directors or the election of each such individual, as applicable, in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act"). Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date, the Request Record Date shall be the close of business on the tenth day after the first date on which a Record Date Request Notice is received by the secretary.

(2) In order for any stockholder to request a special meeting to act on any matter that may properly be considered at a meeting of stockholders, one or more written requests for a special meeting (collectively, the "Special Meeting Request") signed by stockholders of record (or their agents duly authorized in a writing accompanying the request) as of the Request Record Date entitled to cast not less than a majority of all of the votes entitled to be cast on such matter at such meeting (the "Special Meeting Percentage") shall be delivered to the secretary. In addition, the Special Meeting Request shall (a) set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to those lawful matters set forth in the Record Date Request Notice received by the secretary), (b) bear the date of signature of each such stockholder (or such agent) signing the Special Meeting Request, (c) set forth (i) the name and address, as they appear in the Corporation's books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed), (ii) the class, series and number of all shares of stock of the Corporation which are owned (beneficially or of record) by each such stockholder and (iii) the nominee holder for, and number of, shares of stock of the Corporation owned beneficially but not of record by such stockholder, (d) be sent to the secretary by registered mail, return receipt requested, and (e) be received by the secretary within 60 days after the Request Record Date. Any requesting stockholder (or agent duly authorized in a writing accompanying the revocation of the Special Meeting Request) may revoke his, her or its request for a special meeting at any time by written revocation delivered to the secretary.

(3) The secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing or delivering the notice of the meeting (including the Corporation's proxy materials). The secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the documents required by paragraph (2) of this Section 3(b), the secretary receives payment of such reasonably estimated cost prior to the preparation and mailing or delivery of such notice of the meeting.

(4) In the case of any special meeting called by the secretary upon the request of stockholders (a “Stockholder-Requested Meeting”), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; *provided*, however, that the date of any Stockholder-Requested Meeting shall be not more than 90 days after the record date for such meeting (the “Meeting Record Date”); and *provided further* that if the Board of Directors fails to designate, within ten days after the date that a valid Special Meeting Request is actually received by the secretary (the “Delivery Date”), a date and time for a Stockholder-Requested Meeting, then such meeting shall be held at 2:00 p.m., local time, on the 90<sup>th</sup> day after the Meeting Record Date or, if such 90<sup>th</sup> day is not a Business Day (as defined below), on the first preceding Business Day; and *provided further* that in the event that the Board of Directors fails to designate a place for a Stockholder-Requested Meeting within ten days after the Delivery Date, then such meeting shall be held at the principal executive office of the Corporation. In fixing a date for a Stockholder-Requested Meeting, the Board of Directors may consider such factors as it deems relevant, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder-Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date within 30 days after the Delivery Date, then the close of business on the 30<sup>th</sup> day after the Delivery Date shall be the Meeting Record Date. The Board of Directors may revoke the notice for any Stockholder-Requested Meeting in the event that the requesting stockholders fail to comply with the provisions of paragraph (3) of this Section 3(b).

(5) If written revocations of the Special Meeting Request have been delivered to the secretary and the result is that stockholders of record (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting on the matter to the secretary: (i) if the notice of meeting has not already been delivered, the secretary shall refrain from delivering the notice of the meeting and send to all requesting stockholders who have not revoked such requests written notice of any revocation of a request for a special meeting on the matter, or (ii) if the notice of meeting has been delivered and if the secretary first sends to all requesting stockholders who have not revoked requests for a special meeting on the matter written notice of any revocation of a request for the special meeting and written notice of the Corporation’s intention to revoke the notice of the meeting or for the chairman of the meeting to adjourn the meeting without action on the matter, (A) the secretary may revoke the notice of the meeting at any time before ten days before the commencement of the meeting or (B) the chairman of the meeting may call the meeting to order and adjourn the meeting from time to time without acting on the matter. Any request for a special meeting received after a revocation by the secretary of a notice of a meeting shall be considered a request for a new special meeting.

(6) The chairman of the board, chief executive officer, president or Board of Directors may appoint regionally or nationally recognized independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the secretary. For the purpose of permitting the inspectors to perform such review, no such purported Special Meeting Request shall be deemed to have been received by the secretary until the earlier of (i) five Business Days after actual

receipt by the secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the secretary represent, as of the Request Record Date, stockholders of record entitled to cast not less than the Special Meeting Percentage. Nothing contained in this paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(7) For purposes of these Bylaws, “Business Day” shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

Section 4. **NOTICE.** Not less than ten nor more than 90 days before each meeting of stockholders, the secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting notice in writing or by electronic transmission stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, by mail, by presenting it to such stockholder personally, by leaving it at the stockholder’s residence or usual place of business, by electronic transmission or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder’s address as it appears on the records of the Corporation, with postage thereon prepaid. If transmitted electronically, such notice shall be deemed to be given when transmitted to the stockholder by an electronic transmission to any address or number of the stockholder at which the stockholder receives electronic transmissions. The Corporation may give a single notice to all stockholders who share an address, which single notice shall be effective as to any stockholder at such address, unless such stockholder objects to receiving such single notice or revokes a prior consent to receiving such single notice. Failure to give notice of any meeting to one or more stockholders, or any irregularity in such notice, shall not affect the validity of any meeting fixed in accordance with this Article II or the validity of any proceedings at any such meeting.

Subject to Section 11(a) of this Article II, any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice. The Corporation may postpone or cancel a meeting of stockholders by making a public announcement (as defined in Section 11(c)(3) of this Article II) of such postponement or cancellation prior to the meeting. Notice of the date, time and place to which the meeting is postponed shall be given not less than ten days prior to such date and otherwise in the manner set forth in this section.

Section 5. **ORGANIZATION AND CONDUCT.** Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chairman of the meeting or, in the absence of such appointment or appointed individual, by the chairman of the board or, in the case of a vacancy in the office or absence of the chairman of the board, by one of the following officers present at the meeting in the following order: the vice chairman of the board, if



there is one, the chief executive officer, the president, the vice presidents in their order of rank and, within each rank, in their order of seniority, the secretary, or, in the absence of such officers, a chairman chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The secretary or, in the case of a vacancy in the office or absence of the secretary, an assistant secretary or an individual appointed by the Board of Directors or the chairman of the meeting shall act as secretary. In the event that the secretary presides at a meeting of stockholders, an assistant secretary, or, in the absence of all assistant secretaries, an individual appointed by the Board of Directors or the chairman of the meeting, shall record the minutes of the meeting. The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chairman of the meeting. The chairman of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of the chairman and without any action by the stockholders, are appropriate for the proper conduct of the meeting, including, without limitation, (a) restricting admission to the time set for the commencement of the meeting; (b) limiting attendance or participation at the meeting to stockholders of record of the Corporation, their duly authorized proxies and such other individuals as the chairman of the meeting may determine; (c) limiting the time allotted to questions or comments; (d) determining when and for how long the polls should be opened and when the polls should be closed and when announcement of the results should be made; (e) maintaining order and security at the meeting; (f) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chairman of the meeting; (g) concluding a meeting or recessing or adjourning the meeting, whether or not a quorum is present, to a later date and time and at a place announced at the meeting; and (h) complying with any state and local laws and regulations concerning safety and security. Unless otherwise determined by the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with any rules of parliamentary procedure.

Section 6. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting on any matter shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation (the "Charter") for the vote necessary for the approval of any matter. If such quorum is not established at any meeting of the stockholders, the chairman of the meeting may adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting.

The stockholders present either in person or by proxy, at a meeting which has been duly called and at which a quorum has been established, may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

Section 7. VOTING. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share entitles the holder thereof to vote for as many individuals as there are directors to be elected and for whose election the holder is entitled to vote. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may

5

---

properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Charter. Unless otherwise provided by statute or by the Charter, each outstanding share of stock, regardless of class, entitles the holder thereof to cast one vote on each matter submitted to a vote at a meeting of stockholders. Voting on any question or in any election may be *viva voce* unless the chairman of the meeting shall order that voting be by ballot or otherwise.

Section 8. PROXIES. A holder of record of shares of stock of the Corporation may cast votes in person or by proxy executed by the stockholder or by the stockholder's duly authorized agent in any manner permitted by applicable law. Such proxy or evidence of authorization of such proxy shall be filed with the secretary of the Corporation before or at the meeting. No proxy shall be valid more than eleven months after its date unless otherwise provided in the proxy.

Section 9. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, limited liability company, partnership, joint venture, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, managing member, manager, general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any trustee or fiduciary, in such capacity, may vote stock registered in such trustee's or fiduciary's name, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date, the time after the record date within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors considers necessary or appropriate. On receipt by the secretary of the Corporation of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

Section 10. INSPECTORS. The Board of Directors or the chairman of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. Except as otherwise provided by the chairman of the meeting, the inspectors, if any,

6

---

shall (i) determine the number of shares of stock represented at the meeting, in person or by proxy, and the validity and effect of proxies, (ii) receive and tabulate all votes, ballots or consents, (iii) report such tabulation to the chairman of the meeting, (iv) hear and determine all challenges and questions arising in connection with the right to vote, and (v) do such acts as are proper to fairly conduct the election or vote. Each such report shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a

majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be *prima facie* evidence thereof.

Section 11. ADVANCE NOTICE OF STOCKHOLDER NOMINEES FOR DIRECTOR AND OTHER STOCKHOLDER PROPOSALS.

(a) Annual Meetings of Stockholders. (1) Nominations of individuals for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the annual meeting, at the time of giving of notice by the stockholder as provided for in this Section 11(a) and at the time of the annual meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with this Section 11(a).

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 11, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation and any such other business must otherwise be a proper matter for action by the stockholders. To be timely, a stockholder's notice shall set forth all information required under this Section 11 and shall be delivered to the secretary at the principal executive office of the Corporation not earlier than the 150<sup>th</sup> day nor later than 5:00 p.m., Eastern Time, on the 120<sup>th</sup> day prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(3) of this Article II) for the preceding year's annual meeting; provided, however, that in connection with the Corporation's first annual meeting or in the event that the date of the annual meeting is advanced or delayed by more than 30 days from the first anniversary of the date of the preceding year's annual meeting, in order for notice by the stockholder to be timely, such notice must be so delivered not earlier than the 150<sup>th</sup> day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120<sup>th</sup> day prior to the date of such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such meeting is first made. The public announcement of a postponement or adjournment of an annual meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(3) Such stockholder's notice shall set forth:

(i) as to each individual whom the stockholder proposes to nominate for election or reelection as a director (each, a "Proposed Nominee"), all information

7

---

relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act;

(ii) as to any other business that the stockholder proposes to bring before the meeting, a description of such business, the stockholder's reasons for proposing such business at the meeting and any material interest in such business of such stockholder or any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder or the Stockholder Associated Person therefrom;

(iii) as to the stockholder giving the notice, any Proposed Nominee and any Stockholder Associated Person,

(A) the class, series and number of all shares of stock or other securities of the Corporation or any affiliate thereof (collectively, the "Company Securities"), if any, which are owned (beneficially or of record) by such stockholder, Proposed Nominee or Stockholder Associated Person, the date on which each such Company Security was acquired and the investment intent of such acquisition, and any short interest (including any opportunity to profit or share in any benefit from any decrease in the price of such stock or other security) in any Company Securities of any such person,

(B) the nominee holder for, and number of, any Company Securities owned beneficially but not of record by such stockholder, Proposed Nominee or Stockholder Associated Person,

(C) whether and the extent to which such stockholder, Proposed Nominee or Stockholder Associated Person, directly or indirectly (through brokers, nominees or otherwise), is subject to or during the last six months has engaged in any hedging, derivative or other transaction or series of transactions or entered into any other agreement, arrangement or understanding (including any short interest, any borrowing or lending of securities or any proxy or voting agreement), the effect or intent of which is to (I) manage risk or benefit of changes in the price of (x) Company Securities or (y) any security of any entity that was listed in the Peer Group in the Stock Performance Graph in the most recent annual report to security holders of the Corporation (a "Peer Group Company") for such stockholder, Proposed Nominee or Stockholder Associated Person or (II) increase or decrease the voting power of such stockholder, Proposed Nominee or Stockholder Associated Person in the Corporation or any affiliate thereof (or, as applicable, in any Peer Group Company) disproportionately to such person's economic interest in the Company Securities (or, as applicable, in any Peer Group Company); and

(D) any substantial interest, direct or indirect (including, without limitation, any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such stockholder, Proposed Nominee or Stockholder Associated Person, in the Corporation [or any affiliate thereof], other than an interest

8

---

arising from the ownership of Company Securities where such stockholder, Proposed Nominee or Stockholder Associated Person receives no extra or special benefit not shared on a *pro rata* basis by all other holders of the same class or series;

(iv) as to the stockholder giving the notice, any Stockholder Associated Person with an interest or ownership referred to in clauses (ii) or (iii) of this paragraph (3) of this Section 11(a) and any Proposed Nominee,

(A) the name and address of such stockholder, as they appear on the Corporation's stock ledger, and the current name and business address, if different, of each such Stockholder Associated Person and any Proposed Nominee and

(B) the investment strategy or objective, if any, of such stockholder and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person;

(v) the name and address of any person who contacted or was contacted by the stockholder giving the notice or any Stockholder Associated Person about the Proposed Nominee or other business proposal; and

(vi) to the extent known by the stockholder giving the notice, the name and address of any other stockholder supporting the nominee for election or reelection as a director or the proposal of other business.

(4) Such stockholder's notice shall, with respect to any Proposed Nominee, be accompanied by a written undertaking executed by the Proposed Nominee (i) that such Proposed Nominee (a) is not, and will not become, a party to any agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation and (b) will serve as a director of the Corporation if elected; and (ii) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon request by the stockholder providing the notice, and shall include all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act, or would be required pursuant to the rules of any national securities exchange on which any securities of the Corporation are listed or over-the-counter market on which any securities of the Corporation are traded).

(5) Notwithstanding anything in this subsection (a) of this Section 11 to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased, and there is no public announcement of such action at least 130 days prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(3) of this Article II) for the preceding year's annual meeting, a stockholder's notice required by this Section 11(a) shall also be considered

9

---

timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive office of the Corporation not later than 5:00 p.m., Eastern Time, on the tenth day following the day on which such public announcement is first made by the Corporation.

(6) For purposes of this Section 11, "Stockholder Associated Person" of any stockholder shall mean (i) any person acting in concert with such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depository) and (iii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such stockholder or such Stockholder Associated Person.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected only (i) by or at the direction of the Board of Directors, (ii) by a stockholder that has requested that a special meeting be called for the purpose of electing directors in compliance with Section 3 of this Article II and that has supplied the information required by Section 3 of this Article II about each individual whom the stockholder proposes to nominate for election of directors or (iii) provided that the special meeting has been called in accordance with Section 3(a) of this Article II for the purpose of electing directors, by any stockholder of the Corporation who is a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the special meeting, at the time of giving of notice provided for in this Section 11 and at the time of the special meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more individuals to the Board of Directors, any stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice, containing the information required by paragraphs (a)(3) and (4) of this Section 11, is delivered to the secretary at the principal executive office of the Corporation not earlier than the 120<sup>th</sup> day prior to such special meeting and not later than 5:00 p.m., Eastern Time, on the later of the 90<sup>th</sup> day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The public announcement of a postponement or adjournment of a special meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(c) General. (1) If information submitted pursuant to this Section 11 by any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders shall be inaccurate in any material respect, such information may be deemed not to have been provided in accordance with this Section 11. Any such stockholder shall notify the Corporation of any inaccuracy or change (within two Business Days of becoming aware of such inaccuracy or change) in any such information. Upon written request by the secretary or the Board of

10

---

Directors, any such stockholder shall provide, within five Business Days of delivery of such request (or such other period as may be specified in such request), (A) written verification, satisfactory, in the discretion of the Board of Directors or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 11, and (B) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to intend to bring such nomination or other business proposal before the meeting) submitted by the stockholder pursuant to this Section 11 as of an earlier date. If a stockholder fails to provide such written verification or written update within such period, the information as to which written verification or a written update was requested may be deemed not to have been provided in accordance with this Section 11.

(2) Only such individuals who are nominated in accordance with this Section 11 shall be eligible for election by stockholders as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 11. The chairman of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 11.

(3) For purposes of this Section 11, “the date of the proxy statement” shall have the same meaning as “the date of the company’s proxy statement released to shareholders” as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the Securities and Exchange Commission from time to time. “Public announcement” shall mean disclosure (A) in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or other widely circulated news or wire service or (B) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(4) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act with respect to the matters set forth in this Section 11. Nothing in this Section 11 shall be deemed to affect any right of a stockholder to request inclusion of a proposal in, or the right of the Corporation to omit a proposal from, any proxy statement filed by the Corporation with the Securities and Exchange Commission pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act. Nothing in this Section 11 shall require disclosure of revocable proxies received by the stockholder or Stockholder Associated Person pursuant to a solicitation of proxies after the filing of an effective Schedule 14A by such stockholder or Stockholder Associated Person under Section 14(a) of the Exchange Act.

(5) Notwithstanding anything in these Bylaws to the contrary, except as otherwise determined by the chairman of the meeting, if the stockholder giving notice as provided for in this Section 11 does not appear in person or by proxy at such annual or special meeting to present each nominee for election as a director or the proposed business, as applicable, such matter shall not be considered at the meeting.

Section 12. CONTROL SHARE ACQUISITION ACT. Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation

Law, or any successor statute (the “MGCL”), shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

Section 13. STOCKHOLDERS’ CONSENT IN LIEU OF MEETING. Any action required or permitted to be taken at any meeting of stockholders may be taken without a meeting (a) if a unanimous consent setting forth the action is given in writing or by electronic transmission by each stockholder entitled to vote on the matter and filed with the minutes of proceedings of the stockholders or (b) if the action is advised, and submitted to the stockholders for approval, by the Board of Directors and a consent in writing or by electronic transmission of stockholders entitled to cast not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting of stockholders is delivered to the Corporation in accordance with the MGCL. The Corporation shall give notice of any action taken by less than unanimous consent to each stockholder not later than ten days after the effective time of such action.

### ARTICLE III

#### DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors.

Section 2. NUMBER, TENURE AND RESIGNATION. A majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the MGCL, nor more than 15, and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. Any director of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chairman of the board or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Board of Directors shall be held immediately after and at the same place as the annual meeting of stockholders, no notice other than this Bylaw being necessary. In the event such meeting is not so held, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place of regular meetings of the Board of Directors without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the chairman of the board, the chief executive officer, the president or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place of any special meeting of the Board of

Directors called by them. The Board of Directors may provide, by resolution, the time and place of special meetings of the Board of Directors without other notice than such resolution.

Section 5. NOTICE. Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, courier or United States mail to each director at his or her business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least 24 hours prior to the meeting. Notice by United States mail shall be given at least three days prior to the meeting. Notice by courier shall be given at least two days prior to the meeting. Telephone notice shall be deemed to be given when the director or his or her agent is personally given such notice in a telephone call to which the director or his or her agent is a party. Electronic mail notice

shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. QUORUM. A majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors is present at such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a specified group of directors is required for action, a quorum must also include a majority or such other percentage of such group.

The directors present at a meeting which has been duly called and at which a quorum has been established may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough directors to leave fewer than required to establish a quorum.

Section 7. VOTING. The action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws. If enough directors have withdrawn from a meeting to leave fewer than required to establish a quorum, but the meeting is not adjourned, the action of the majority of that number of directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws.

Section 8. ORGANIZATION. At each meeting of the Board of Directors, the chairman of the board or, in the absence of the chairman, the vice chairman of the board, if any, shall act as chairman of the meeting. In the absence of both the chairman and vice chairman of the board,

13

---

the chief executive officer or, in the absence of the chief executive officer, the president or, in the absence of the president, a director chosen by a majority of the directors present, shall act as chairman of the meeting. The secretary or, in his or her absence, an assistant secretary of the Corporation, or, in the absence of the secretary and all assistant secretaries, an individual appointed by the chairman of the meeting, shall act as secretary of the meeting.

Section 9. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 10. CONSENT BY DIRECTORS WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each director and is filed with the minutes of proceedings of the Board of Directors.

Section 11. VACANCIES. If for any reason any or all of the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Any vacancy on the Board of Directors for any cause other than an increase in the number of directors may be filled by a majority of the remaining directors, even if such majority is less than a quorum. Any vacancy in the number of directors created by an increase in the number of directors may be filled by a majority of the entire Board of Directors. Any individual so elected as director shall serve until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies.

Section 12. COMPENSATION. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in connection with each property visit and any other service or activity they perform or engage in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. RELIANCE. Each director and officer of the Corporation shall, in the performance of his or her duties with respect to the Corporation, be entitled to rely on any information, opinion, report or statement, including any financial statement or other financial data, prepared or presented by an officer or employee of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, by a lawyer, certified public accountant or other person, as to a matter which the director or officer reasonably believes to be within the person's professional or expert competence, or, with respect to a director, by a committee of the Board of Directors on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

14

---

Section 14. RATIFICATION. The Board of Directors or the stockholders may ratify any action or inaction by the Corporation or its officers to the extent that the Board of Directors or the stockholders could have originally authorized the matter, and if so ratified, shall have the same force and effect as if originally duly authorized, and such ratification shall be binding upon the Corporation and its stockholders. Any action or inaction questioned in any proceeding on the ground of lack of authority, defective or irregular execution, adverse interest of a director, officer or stockholder, non-disclosure, miscomputation, the application of improper principles or practices of accounting or otherwise, may be ratified, before or after judgment, by the Board of Directors or by the stockholders, and such ratification shall constitute a bar to any claim or execution of any judgment in respect of such questioned action or inaction.

Section 15. CERTAIN RIGHTS OF DIRECTORS AND OFFICERS. Any director or officer, in his or her personal capacity or in a capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar to, in addition to or in competition with those of or relating to the Corporation.

Section 16. EMERGENCY PROVISIONS. Notwithstanding any other provision in the Charter or these Bylaws, this Section 16 shall apply during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors under Article III of these Bylaws cannot readily be obtained (an "Emergency"). During any Emergency, unless otherwise provided by the Board of Directors, (i) a meeting of the Board of Directors or a committee thereof may be called by any director or officer by any means feasible under the circumstances; (ii) notice of any meeting of the Board of Directors during such an Emergency may be given less than 24 hours prior to the meeting to as many directors and by such means as may be feasible at the time, including publication, television or radio; and (iii) the number of directors necessary to constitute a quorum shall be one-third of the entire Board of Directors.

## ARTICLE IV

### COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Board of Directors may appoint from among its members an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee, composed of one or more directors, to serve at the pleasure of the Board of Directors. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member.

Section 2. POWERS. The Board of Directors may delegate to any committee appointed under Section 1 of this Article any of the powers of the Board of Directors, except as prohibited by law. Except as may be otherwise provided by the Board of Directors, any committee may delegate some or all of its power and authority to one or more subcommittees, composed of one or more directors, as the committee deems appropriate in its sole discretion.

15

---

Section 3. MEETINGS. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors may designate a chairman of any committee, and such chairman or, in the absence of a chairman, any two members of any committee (if there are at least two members of the committee) may fix the time and place of its meeting unless the Board shall otherwise provide.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. CONSENT BY COMMITTEES WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each member of the committee and is filed with the minutes of proceedings of such committee.

Section 6. VACANCIES. Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership of any committee, to appoint the chair of any committee, to fill any vacancy, to designate an alternate member to replace any absent or disqualified member or to dissolve any such committee.

## ARTICLE V

### OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Corporation shall include a president, a secretary and a treasurer and may include a chairman of the board, a vice chairman of the board, a chief executive officer, one or more vice presidents, a chief operating officer, a chief financial officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as it shall deem necessary or appropriate. The officers of the Corporation shall be elected annually by the Board of Directors, except that the chief executive officer or president may from time to time appoint one or more vice presidents, assistant secretaries and assistant treasurers or other officers. Each officer shall serve until his or her successor is elected and qualifies or until his or her death, or his or her resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors if in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without

16

---

prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chairman of the board, the chief executive officer, the president or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. CHAIRMAN OF THE BOARD. The Board of Directors may designate from among its members a chairman of the board, who shall not, solely by reason of these Bylaws, be an officer of the Corporation. The Board of Directors may designate the chairman of the board as an executive or non-executive chairman. The chairman of the board shall preside over the meetings of the Board of Directors. The chairman of the board shall perform such other duties as may be assigned to him or her by these Bylaws or the Board of Directors.

Section 5. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a chief executive officer. In the absence of such designation, the chairman of the board shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of chief executive officer and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. CHIEF OPERATING OFFICER. The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 7. CHIEF FINANCIAL OFFICER. The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 8. PRESIDENT. In the absence of a chief executive officer, the president shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

17

---

Section 9. VICE PRESIDENTS. In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to such vice president by the chief executive officer, the president or the Board of Directors. The Board of Directors may designate one or more vice presidents as executive vice president, senior vice president, or vice president for particular areas of responsibility.

Section 10. SECRETARY. The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors.

Section 11. TREASURER. The treasurer shall have the custody of the funds and securities of the Corporation, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors and in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all his or her transactions as treasurer and of the financial condition of the Corporation.

Section 12. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the chief executive officer, the president or the Board of Directors.

Section 13. COMPENSATION. The compensation of the officers shall be fixed from time to time by or under the authority of the Board of Directors and no officer shall be prevented from receiving such compensation by reason of the fact that he or she is also a director.

18

---

## ARTICLE VI

### CONTRACTS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when duly authorized or ratified by action of the Board of Directors and executed by an authorized person.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited or invested from time to time to the credit of the Corporation as the Board of Directors, the chief executive officer, the president, the chief financial officer, or any other officer designated by the Board of Directors may determine.

## ARTICLE VII

### STOCK

Section 1. CERTIFICATES. Except as may be otherwise provided by the Board of Directors or any officer of the Corporation, stockholders of the Corporation are not entitled to certificates representing the shares of stock held by them. In the event that the Corporation issues shares of stock represented by certificates, such certificates shall be in such form as prescribed by the Board of Directors or a duly authorized officer, shall contain the statements and information required by the MGCL and shall be signed by the officers of the Corporation in any manner permitted by the MGCL. In the event that the Corporation issues shares of stock without certificates, to the extent then required by the MGCL the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates. There shall be no difference in the rights and obligations of stockholders based on whether or not their shares are represented by certificates.

Section 2. TRANSFERS. All transfers of shares of stock shall be made on the books of the Corporation in such manner as the Board of Directors or any officer of the Corporation may prescribe and, if such shares are certificated, upon surrender of certificates duly endorsed. The issuance of a new certificate upon the transfer of certificated shares is subject to the determination of the Board of Directors or an officer of the Corporation that such shares shall no longer be represented by certificates. Upon the transfer of any uncertificated shares, the Corporation shall provide to the record holders of such shares, to the extent then required by the MGCL, a written statement of the information required by the MGCL to be included on stock certificates.

19

---

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class or series of stock will be subject in all respects to the Charter and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer of the Corporation may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, destroyed, stolen or mutilated, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated; provided, however, if such shares have ceased to be certificated, no new certificate shall be issued unless requested in writing by such stockholder and the Board of Directors or an officer of the Corporation has determined that such certificates may be issued. Unless otherwise determined by an officer of the Corporation, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or his or her legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Corporation a bond in such sums as it may direct as indemnity against any claim that may be made against the Corporation.

Section 4. FIXING OF RECORD DATE. The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such record date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of stockholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

When a record date for the determination of stockholders entitled to notice of or to vote at any meeting of stockholders has been set as provided in this section, such record date shall continue to apply to the meeting if postponed or adjourned, except if the meeting is postponed or adjourned to a date more than 120 days after the record date originally fixed for the meeting, in which case a new record date for such meeting shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of stock of each class held by such stockholder.

Section 6. FRACTIONAL STOCK; ISSUANCE OF UNITS. The Board of Directors may authorize the Corporation to issue fractional shares of stock or authorize the issuance of scrip, all on such terms and under such conditions as it may determine. Notwithstanding any other

20

---

provision of the Charter or these Bylaws, the Board of Directors may authorize the issuance of units consisting of different securities of the Corporation.

## ARTICLE VIII

### ACCOUNTING YEAR

The Board of Directors shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

## ARTICLE IX

### DISTRIBUTIONS

Section 1. AUTHORIZATION. Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors, subject to the provisions of law and the Charter. Dividends and other distributions may be paid in cash, property or stock of the



Corporation, subject to the provisions of law and the Charter.

Section 2. CONTINGENCIES. Before payment of any dividend or other distribution, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its sole discretion, think proper as a reserve fund for contingencies, for equalizing dividends or other distributions, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine, and the Board of Directors may modify or abolish any such reserve.

## ARTICLE X

### INVESTMENT POLICY

Subject to the provisions of the Charter, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

## ARTICLE XI

### SEAL

Section 1. SEAL. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation and the words "Incorporated Maryland." The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or

21

---

regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

## ARTICLE XII

### INDEMNIFICATION AND ADVANCE OF EXPENSES

To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former director or officer of the Corporation and who is made or threatened to be made a party to, or witness in, the proceeding by reason of his or her service in that capacity or (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, trustee, member, manager or partner of another corporation, real estate investment trust, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to, or witness in, the proceeding by reason of his or her service in that capacity. The rights to indemnification and advance of expenses provided by the Charter and these Bylaws shall vest immediately upon election or appointment of a director or officer. The Corporation may, with the approval of its Board of Directors, provide such indemnification and advance for expenses to an individual who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation. The indemnification and payment or reimbursement of expenses provided in these Bylaws shall not be deemed exclusive of or limit in any way other rights to which any person seeking indemnification or payment or reimbursement of expenses may be or may become entitled under any bylaw, resolution, insurance, agreement or otherwise.

Neither the amendment nor repeal of this Article, nor the adoption or amendment of any other provision of the Charter or these Bylaws inconsistent with this Article, shall apply to or affect in any respect the applicability of the preceding paragraph with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

## ARTICLE XIII

### WAIVER OF NOTICE

Whenever any notice of a meeting is required to be given pursuant to the Charter or these Bylaws or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice of such meeting, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose

22

---

of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

## ARTICLE XIV

### EXCLUSIVE FORUM FOR CERTAIN LITIGATION

Unless the Corporation consents in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the United States District Court for the District of Maryland, Baltimore Division, shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim of breach of any duty owed by any director

or officer or other employee of the Corporation to the Corporation or to the stockholders of the Corporation, (c) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the MGCL, the Charter or these Bylaws, or (d) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation that is governed by the internal affairs doctrine.

## **ARTICLE XV**

### **AMENDMENT OF BYLAWS**

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws.

CERTAIN OF THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION, UNLESS IN THE OPINION OF COUNSEL SATISFACTORY TO THE PARTNERSHIP THE PROPOSED SALE, TRANSFER OR OTHER DISPOSITION MAY BE EFFECTED WITHOUT REGISTRATION UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

DATED AS OF JUNE 27, 2017

FIRST AMENDED AND RESTATED  
AGREEMENT OF LIMITED PARTNERSHIP  
OF  
SAFETY INCOME AND GROWTH  
OPERATING PARTNERSHIP LP

A DELAWARE LIMITED PARTNERSHIP

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINED TERMS	1
ARTICLE II ORGANIZATIONAL MATTERS	19
Section 2.1.    Organization	19
Section 2.2.    Name	19
Section 2.3.    Registered Office and Agent; Principal Office	19
Section 2.4.    Power of Attorney	19
Section 2.5.    Term	20
Section 2.6.    Partnership Interests as Securities	21
ARTICLE III PURPOSE	21
Section 3.1.    Purpose and Business	21
Section 3.2.    Powers	21
Section 3.3.    Partnership Only for Partnership Purposes Specified	21
Section 3.4.    Representations and Warranties by the Parties	22
ARTICLE IV CAPITAL CONTRIBUTIONS	23
Section 4.1.    Capital Contributions of the Partners	23
Section 4.2.    Classes and Series of Partnership Units	24
Section 4.3.    Issuances of Additional Partnership Interests	24
Section 4.4.    Additional Funds and Capital Contributions	25
Section 4.5.    Equity Incentive Plan	27
Section 4.6.    LTIP Units	28
Section 4.7.    Conversion of LTIP Units	31
Section 4.8.    No Interest; No Return	33
Section 4.9.    Other Contribution Provisions	34
Section 4.10.   Not Taxable as a Corporation	34

Section 4.11.	No Third Party Beneficiary	34
ARTICLE V DISTRIBUTIONS		34
Section 5.1.	Requirement and Characterization of Distributions	34
Section 5.2.	Interests in Property not Held Through the Partnership	35
Section 5.3.	Distributions In-Kind	35
Section 5.4.	Amounts Withheld	35
Section 5.5.	Distributions Upon Liquidation	35
i		
<hr/>		
Section 5.6.	Distributions to Reflect Issuance of Additional Partnership Units	36
Section 5.7.	Restricted Distributions	36
ARTICLE VI ALLOCATIONS		36
Section 6.1.	Timing and Amount of Allocations of Net Income and Net Loss	36
Section 6.2.	General Allocations	36
Section 6.3.	Additional Allocation Provisions	38
Section 6.4.	Tax Allocations	41
ARTICLE VII MANAGEMENT AND OPERATIONS OF BUSINESS		43
Section 7.1.	Management	43
Section 7.2.	Certificate of Limited Partnership	48
Section 7.3.	Restrictions on General Partner's Authority	48
Section 7.4.	Reimbursement of the General Partner	50
Section 7.5.	Outside Activities of SFTY and the General Partner	51
Section 7.6.	Contracts with Affiliates	52
Section 7.7.	Indemnification	52
Section 7.8.	Liability of the General Partner and Affiliates	54
Section 7.9.	Other Matters Concerning the General Partner	56
Section 7.10.	Title to Partnership Assets	56
Section 7.11.	Reliance by Third Parties	56
ARTICLE VIII RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS		58
Section 8.1.	Limitation of Liability	58
Section 8.2.	Management of Business	58
Section 8.3.	Outside Activities of Limited Partners	58
Section 8.4.	Return of Capital	59
Section 8.5.	Adjustment Factor	59
Section 8.6.	Redemption Rights	59
ARTICLE IX BOOKS, RECORDS, ACCOUNTING AND REPORTS		60
Section 9.1.	Records and Accounting	60
Section 9.2.	Partnership Year	60

Section 9.3.	Reports	61
ARTICLE X TAX MATTERS		61
Section 10.1.	Preparation of Tax Returns	61
Section 10.2.	Tax Elections	61
Section 10.3.	Tax Matters Partner	62
ii		
<hr/>		
Section 10.4.	Withholding	63
Section 10.5.	Organizational Expenses	64
ARTICLE XI TRANSFERS AND WITHDRAWALS		64
Section 11.1.	Transfer	64
Section 11.2.	Transfer of General Partner’s Partnership Interest and SFTY’s Limited Partnership Interests	65
Section 11.3.	Transfer of Limited Partners’ Partnership Interests	65
Section 11.4.	Substituted Limited Partners	67
Section 11.5.	Assignees	68
Section 11.6.	General Provisions	68
ARTICLE XII ADMISSION OF PARTNERS		69
Section 12.1.	Admission of Successor General Partner	69
Section 12.2.	Admission of Additional Limited Partners	69
Section 12.3.	Amendment of Agreement and Certificate of Limited Partnership	70
Section 12.4.	Limit on Number of Partners	70
Section 12.5.	Admission	70
ARTICLE XIII DISSOLUTION, LIQUIDATION AND TERMINATION		70
Section 13.1.	Dissolution	70
Section 13.2.	Winding Up	71
Section 13.3.	Deemed Distribution and Recontribution	73
Section 13.4.	Rights of Limited Partners	73
Section 13.5.	Notice of Dissolution	73
Section 13.6.	Cancellation of Certificate of Limited Partnership	74
Section 13.7.	Reasonable Time for Winding-Up	74
ARTICLE XIV PROCEDURES FOR ACTIONS AND CONSENTS OF PARTNERS; AMENDMENTS; MEETINGS		74
Section 14.1.	Procedures for Actions and Consents of Partners	74
Section 14.2.	Amendments	74
Section 14.3.	Meetings of the Partners	74
ARTICLE XV GENERAL PROVISIONS		75
Section 15.1.	Addresses and Notice	75
Section 15.2.	Titles and Captions	76
Section 15.3.	Pronouns and Plurals	76

Section 15.4.	Further Action	76
Section 15.5.	Binding Effect	76

Section 15.6.	Waiver	76
Section 15.7.	Counterparts	76
Section 15.8.	Applicable Law	76
Section 15.9.	Entire Agreement	77
Section 15.10.	Invalidity of Provisions	77
Section 15.11.	Limitation to Preserve REIT Qualification	77
Section 15.12.	No Partition	78
Section 15.13.	No Third-Party Rights Created Hereby	78
Section 15.14.	No Rights as Stockholders of General Partner	79
Section 15.15.	Creditors	79

EXHIBITS:

Exhibit A	—	Partners and Partnership Units
Exhibit B	—	Notice of Redemption
Exhibit D	—	Notice of Election by Partner to Convert LTIP Units into OP Units
Exhibit E	—	Notice of Election by Partnership to Force Conversion of LTIP Units into OP Units

THIS FIRST AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP, LP, dated as of June 27, 2017 is entered into by and among SIGOP Gen Par LLC, a Delaware limited liability company (the “**General Partner**”), SAFETY, INCOME AND GROWTH, INC., a Maryland corporation (“**SFTY**”), and the Additional Limited Partners (defined below).

WHEREAS, a Certificate of Limited Partnership of the Partnership was filed in the office of the Secretary of State of the State of Delaware on October 17, 2016;

WHEREAS, the General Partner and SFTY, as the initial Limited Partner, entered into an Agreement of Limited Partnership of Safety Income and Growth Operating Partnership, LP, dated as of October 17, 2016, pursuant to which the Partnership was formed (the “**Original Agreement**”); and

WHEREAS, SFTY has consummated the IPO on the date hereof and will contribute: (i) 1% of the gross proceeds of the IPO to the General Partner, which will in turn contribute such proceeds to the Partnership to acquire additional OP Units in respect of its General Partner Interest in the Partnership; and (ii) 99% of the gross proceeds of the IPO directly to the Partnership, to acquire OP Units representing Limited Partner Interests in the Partnership;

WHEREAS, the General Partner and SFTY desire to amend and restate the Original Agreement in its entirety by entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend and restate the Original Agreement in its entirety and agree to continue the Partnership as a limited partnership under the Delaware Revised Uniform Limited Partnership Act, as amended from time to time, as follows:

## ARTICLE I

### DEFINED TERMS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

“**Act**” means the Delaware Revised Uniform Limited Partnership Act (6 Del.C. § 17-101 *et seq.*), as it may be amended from time to time, and any successor to such statute.

“**Additional Funds**” has the meaning set forth in Section 4.4(a) hereof.

“**Additional Limited Partner**” means a Person who is admitted to the Partnership as a Limited Partner pursuant to Section 4.3 and Section 12.2 hereof and who is shown as such on the books and records of the Partnership.

“**Adjusted Capital Account**” means the Capital Account maintained for each Partner as of the end of each Fiscal Year (i) increased by any amounts which such Partner is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore

pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) and (ii) decreased by the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“**Adjusted Capital Account Deficit**” means, with respect to any Partner, the deficit balance, if any, in such Partner’s Adjusted Capital Account as of the end of the relevant Partnership Year or other applicable period.

“**Adjustment Event**” shall have the meaning set forth in Section 4.6(a) hereof.

“**Adjustment Factor**” means 1.0; **provided, however, that** in the event that:

- (i) SFTY (a) declares or pays a dividend on its outstanding REIT Shares wholly or partly in REIT Shares or makes a distribution to all holders of its outstanding REIT Shares wholly or partly in REIT Shares, (b) splits or subdivides its outstanding REIT Shares or (c) effects a reverse stock split or otherwise combines its outstanding REIT Shares into a smaller number of REIT Shares, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (i) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has occurred as of such time) and (ii) the denominator of which shall be the actual number of REIT Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination;
- (ii) SFTY distributes any rights, options or warrants to all holders of its REIT Shares to subscribe for or to purchase or to otherwise acquire REIT Shares (or other securities or rights convertible into, exchangeable for or exercisable for REIT Shares) at a price per share less than the Value of a REIT Share on the record date for such distribution (each a “**Distributed Right**”), then, as of the distribution date of such Distributed Rights, or, if later, the time such Distributed Rights become exercisable, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction (a) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus the maximum number of REIT Shares purchasable under such Distributed Rights and (b) the denominator of which shall be the number of REIT Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus a fraction (1) the numerator of which is the maximum number of REIT Shares purchasable under such Distributed Rights times the minimum purchase price per REIT Share under such Distributed Rights and (2) the denominator of which is the Value of a REIT Share as of the record date (or, if later, the date such Distributed Rights become exercisable); **provided, however,**

**that** if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution of the Distributed Rights, to reflect a reduced maximum number of REIT Shares or any change in the minimum purchase price for the purposes of the above fraction;

- (iii) SFTY shall, by dividend or otherwise, distribute to all holders of its REIT Shares evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (i) or (ii) above), which evidences of indebtedness or assets relate to assets not received by SFTY or its Subsidiaries pursuant to a *pro rata* distribution by the Partnership, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying the Adjustment Factor in effect immediately prior to the close of business on the date fixed for determination of stockholders of SFTY entitled to receive such distribution by a fraction (i) the numerator of which shall be such Value of a REIT Share on the date fixed for such determination and (ii) the denominator of which shall be the Value of a REIT Share on the dates fixed for such determination less the then fair market value (as determined by the REIT, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one REIT Share; and
- (iv) an entity other than an Affiliate of SFTY shall become General Partner pursuant to any merger, consolidation or combination of SFTY with or into another entity (the “**Successor Entity**”), the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor by the number of shares of the Successor Entity into which one REIT Share is converted pursuant to such merger, consolidation or combination, determined as of the date of such merger, consolidation or combination.

Any adjustments to the Adjustment Factor shall become effective immediately after the effective date of such event, retroactive to the record date, if any, for such event. Notwithstanding the foregoing, the Adjustment Factor shall not be adjusted in connection with an event described in clauses (i) or (ii) above if, in connection with such event, the Partnership makes a distribution of cash, Partnership Units, REIT Shares and/or rights, options or warrants to acquire Partnership Units and/or REIT Shares with respect to all applicable OP Units (including LTIP Units) or effects a reverse split of, or otherwise combines, the OP Units (including LTIP Units), as applicable, that is comparable as a whole in all material respects with such an event, or if in connection with an event described in clause (iv) above, the consideration in Section 11.2 hereof is paid.

“**Affiliate**” means, with respect to any Person, (i) any Person directly or indirectly controlling or controlled by or under common control with such Person, (ii) any Person owning or controlling ten percent (10%) or more of the outstanding voting interests of such Person, (iii) any Person of which such Person owns or controls ten percent (10%) or more of the voting interests or (iv) any officer, director, general partner or trustee of such Person or any Person referred to in clauses (i), (ii), and (iii) above. For the purposes of this definition, “control” when used with respect to any Person means the possession, directly or indirectly, of the power to

direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Agreement**” means this First Amendment and Restated Agreement of Limited Partnership of Safety Income and Growth Operating Partnership, LP, as it may be amended, supplemented or restated from time to time.

“**Assignee**” means a Person to whom one or more Partnership Units have been Transferred in a manner permitted under this Agreement, but who has not become a Substituted Limited Partner, and who has the rights set forth in Section 11.5 hereof.

“**Available Cash**” means, with respect to any period for which such calculation is being made, the amount of cash available for distribution by the Partnership as determined by the General Partner in its sole and absolute discretion.

“**Board of Directors**” means the board of directors of SFTY.

“**Business Day**” means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

“**Bylaws**” means the Bylaws of SFTY, as amended, supplemented or restated from time to time.

“**Capital Account**” means, with respect to any Partner, the Capital Account maintained by the General Partner for such Partner on the Partnership’s books and records in accordance with the following provisions:

- (A) To each Partner’s Capital Account, there shall be added such Partner’s Capital Contributions, such Partner’s distributive share of Net Income and any items in the nature of income or gain that are specially allocated pursuant to Section 6.3 hereof, and the principal amount of any Partnership liabilities assumed by such Partner or that are secured by any property distributed to such Partner.
- (B) From each Partner’s Capital Account, there shall be subtracted the amount of cash and the Gross Asset Value of any property distributed to such Partner pursuant to any provision of this Agreement, such Partner’s distributive share of Net Losses and any items in the nature of expenses or losses that are specially allocated pursuant to Section 6.3 hereof, and the principal amount of any liabilities of such Partner assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership.
- (C) In the event any interest in the Partnership is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the Transferred interest.

4

---

- (D) In determining the principal amount of any liability for purposes of subsections (a) and (b) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.
- (E) The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Regulations. If the General Partner shall determine that it is prudent to modify the manner in which the Capital Accounts are maintained in order to comply with such Regulations, the General Partner may make such modification **provided, that** such modification will not have a material effect on the amounts distributable to any Partner without such Partner’s Consent. The General Partner may, in its sole discretion, (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership’s balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(c) and (ii) make any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b) or Section 1.704-2.

“**Capital Account Limitation**” has the meaning set forth in Section 4.7(b) hereof.

“**Capital Contribution**” means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any Contributed Property that such Partner contributes to the Partnership or is deemed to contribute to the Partnership pursuant to Section 4.4 hereof.

“**Cash Amount**” means, with respect to a Tendering Party, an amount of cash equal to the product of (A) the Value of a REIT Share and (B) such Tendering Party’s REIT Shares Amount determined as of the date of receipt by the General Partner of such Tendering Party’s Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day.

“**Certificate of Limited Partnership**” means the Certificate of Limited Partnership of the Partnership filed in the office of the Secretary of State of the State of Delaware on October 17, 2016, as amended from time to time in accordance with the terms hereof and the Act.

“**Charity**” means an entity described in Section 501(c)(3) of the Code or any trust all the beneficiaries of which are such entities.

“**Charter**” means the Articles of Incorporation of SFTY as filed with the State Department of Assessments and Taxation of Maryland, as amended, supplemented or restated from time to time.

“**Closing Price**” has the meaning set forth in the definition of “Value.”

5

---



“**Code**” means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute thereto, as interpreted by the applicable Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

“**Consent**” means the consent to, approval of, or vote in favor of a proposed action by a Partner given in accordance with Article XIV hereof.

“**Constituent Person**” shall have the meaning set forth in Section 4.7(f).

“**Contributed Entity**” has the meaning set forth in the definition of “Indemnitee.”

“**Contributed Property**” means each item of Property or other asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Partnership (or deemed contributed by the Partnership to a “new” partnership pursuant to Code Section 708) net of any liabilities assumed by the Partnership relating to such Contributed Property and any liability to which such Contributed Property is subject.

“**Controlled Entity**” means, as to any Partner, (a) any corporation more than twenty-five percent (25%) of the outstanding voting stock of which is owned by such Partner and such Partner’s Family Members and Affiliates, (b) any trust, whether or not revocable, of which such Partner and such Partner’s Family Members and Affiliates are the sole initial income beneficiaries, (c) any partnership of which such Partner or such Partner’s Family Members and Affiliates are the managing partners and in which such Partner, such Partner’s Family Members and Affiliates hold partnership interests representing at least twenty-five percent (25%) of such partnership’s capital and profits and (d) any limited liability company of which such Partner or such Partner’s Family Members and Affiliates are the managers and in which such Partner, such Partner’s Family Members and Affiliates hold membership interests representing at least twenty-five percent (25%) of such limited liability company’s capital and profits.

“**Conversion Date**” shall have the meaning set forth in Section 4.7(b).

“**Conversion Notice**” shall have the meaning set forth in Section 4.7(b).

“**Conversion Right**” shall have the meaning set forth in Section 4.7(a).

“**Debt**” means, as to any Person, as of any date of determination, (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person’s interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) lease obligations of such Person that, in accordance with generally accepted accounting principles, should be capitalized.

“**Depreciation**” means, for each Partnership Year or other applicable period, an amount equal to the federal income tax depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or period, Depreciation shall be in an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; **provided, however, that** if the federal income tax depreciation, amortization or other cost recovery deduction for such year or period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

“**Distributed Right**” has the meaning set forth in the definition of “**Adjustment Factor**.”

“**Economic Capital Account Balances**” has the meaning set forth in Section 6.3(c) hereof.

“**Effective Date**” means the date of closing of the initial public offering of REIT Shares.

“**Equity Incentive Plan**” means any equity incentive plan hereafter adopted by the Partnership or SFTY, including SFTY’s initial equity incentive plan adopted at the time of the IPO.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“**Exclusivity Agreement**” means the Exclusivity and Expense Reimbursement Agreement, dated \_\_\_\_\_, 2017, between SFTY and iStar Inc., as the same maybe amended from time to time.

“**Family Member**” means, as to a Person that is an individual, such Person’s spouse, ancestors (whether by blood or by adoption or step-ancestors by marriage), descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law and descendants (whether by blood or by adoption or step-descendants by marriage) of a brother or sister and any limited liability company or *inter vivos* or testamentary trusts (whether revocable or irrevocable) of which only such Person, his or her spouse, ancestors (whether by blood or by adoption or step-ancestors by marriage), descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law and descendants (whether by blood or by adoption or step-descendants by marriage) of a brother or sister are initial income beneficiaries.

“**Flow-Through Entity**” has the meaning set forth in Section 3.4(a)(iv).

“**Flow-Through Partner**” has the meaning set forth in Section 3.4(a)(iv).

“**Forced Redemption**” shall have the meaning set forth in Section 4.7(c).

“**Forced Redemption Notice**” shall have the meaning set forth in Section 4.7(c).

“**Funding Debt**” means the incurrence of any Debt for the purpose of providing funds to the Partnership by or on behalf of SFTY or any wholly owned subsidiary of SFTY.

“**General Partner**” means SIGOP Gen Par LLC, and its successors and assigns, as the general partner of the Partnership.

“**General Partner Interest**” means the Partnership Interest held by the General Partner, which Partnership Interest is an interest as a general partner under the Act. A General Partner Interest may be expressed as a number of Partnership Units.

“**Governmental Entity**” means any federal, state, county, city, local or foreign governmental, administrative or regulatory authority, commission, committee, agency or body (including any court, tribunal or arbitral body).

“**Gross Asset Value**” means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

- (a) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset as determined by the General Partner in its sole discretion.
- (b) The Gross Asset Values of all Partnership assets immediately prior to the occurrence of any event described in clause (i), clause (ii), clause (iii) or clause (iv) hereof shall be adjusted to equal their respective gross fair market values, as determined by the General Partner in its sole discretion using such reasonable method of valuation as it may adopt, as of the following times:
  - (i) the acquisition of an additional interest in the Partnership (other than in connection with the execution of this Agreement but including, without limitation, acquisitions pursuant to Section 4.2 hereof or contributions or deemed contributions by the General Partner pursuant to Section 4.2 hereof) by a new or existing Partner in exchange for more than a *de minimis* Capital Contribution, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership; **provided, that** the issuance of any LTIP Unit shall be deemed to require a recalculation pursuant to this subsection;
  - (ii) the distribution by the Partnership to a Partner of more than a *de minimis* amount of Property as consideration for an interest in the Partnership, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;
  - (iii) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and
  - (iv) at such other times as the General Partner shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2.
- (c) The Gross Asset Value of any Partnership asset distributed to a Partner shall be the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner **provided, that**, if the distributee is the General Partner or if the distributee and the General Partner cannot agree on such a determination, such gross fair market value shall be determined by an independent third party experienced in the valuation of similar assets, selected by the General Partner in good faith.
- (d) The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); **provided, however, that** Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the General Partner reasonably determines that an adjustment pursuant to subsection (b) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d).
- (e) If the Gross Asset Value of a Partnership asset has been determined or adjusted pursuant to subsection (a), subsection (b) or subsection (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Losses.

“**Holder**” means either (a) a Partner or (b) an Assignee, owning a Partnership Unit, that is treated as a partner of the Partnership for federal income tax purposes.

“**Incapacity**” or “**Incapacitated**” means, (i) as to any Partner who is an individual, death, total physical disability or entry by a court of competent jurisdiction adjudicating such Partner incompetent to manage his or her person or his or her estate; (ii) as to any Partner that is a corporation or limited liability company, the filing of a certificate of dissolution, or its equivalent, or the revocation of the corporation’s charter; (iii) as to any Partner that is a partnership, the dissolution and commencement of winding up of the partnership; (iv) as to any Partner that is an estate, the distribution by the fiduciary of the estate’s entire interest in the Partnership; (v) as to any trustee of a trust that is a Partner, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Partner, the bankruptcy of such Partner. For purposes of this definition, bankruptcy of a Partner shall be deemed to have occurred when (a) the Partner commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Partner under any bankruptcy, insolvency or other similar law now or hereafter in effect, (b) the Partner is adjudged as bankrupt or insolvent, or a final and nonappealable order for relief under any bankruptcy, insolvency or similar law now or hereafter

in effect has been entered against the Partner, (c) the Partner executes and delivers a general assignment for the benefit of the Partner's creditors, (d) the Partner files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Partner in any proceeding of the nature described in clause (b) above, (e) the Partner seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for the Partner or for all or any substantial part of the Partner's properties, (f) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within 120 days after the commencement thereof, (g) the appointment without the Partner's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within ninety (90) days of such appointment, or (h) an appointment referred to in clause (g) above is not vacated within ninety (90) days after the expiration of any such stay.

**"Indemnitee"** means (i) any Person made a party to a proceeding by reason of its status as (A) the General Partner or any successor thereto or (B) an officer or director or controlling Person, as applicable, of the Partnership, the General Partner or a Subsidiary thereof (including by reason of being named a Person who is about to become a director) and (ii) such other Persons (including (A) Affiliates of the General Partner or the Partnership or (B) a present or former member, manager, shareholder, director, limited partner, general partner, officer or controlling person of an entity that owned an interest in properties or other assets that are going to be or were contributed to SFTY, the General Partner, the Partnership or their subsidiaries (each such entity, a **"Contributing Entity"**) in connection with the IPO) as the General Partner may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

**"Independent Directors"** means the independent directors of the Board of Directors of SFTY as determined by the rules and regulations then in effect of the stock exchange on which SFTY's common stock is then traded.

**"IPO"** means the initial public offering of the common stock of SFTY.

**"IRS"** means the Internal Revenue Service.

**"Junior Share"** means a share of capital stock of SFTY now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the REIT Shares.

**"Junior Unit"** means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Sections 4.1, 4.3 or 4.4 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the OP Units.

**"Limited Partner"** means any Person named as a Limited Partner on Exhibit A attached hereto, as such Exhibit A may be amended from time to time, or any Substituted Limited Partner or Additional Limited Partner, in such Person's capacity as a Limited Partner in the Partnership.

**"Limited Partner Interest"** means a Partnership Interest of a Limited Partner in the Partnership representing a fractional part of the Partnership Interests of all Limited Partners and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as

provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. A Limited Partner Interest may be expressed as a number of OP Units, LTIP Units, Preferred Units, Junior Units or other Partnership Units.

**"Liquidating Event"** has the meaning set forth in Section 13.1 hereof.

**"Liquidating Gains"** has the meaning set forth in Section 6.3(c) hereof.

**"Liquidator"** has the meaning set forth in Section 13.2(a) hereof.

**"LTIP Award"** means each or any, as the context requires, LTIP Award issued under any Equity Incentive Plan.

**"LTIP Unit"** means a Partnership Unit which is designated as an LTIP Unit and which has the rights, preferences and other privileges and restrictions, qualifications, and limitations set forth in Section 4.6 hereof (except as may be varied by the designations applicable to any particular class or series of LTIP Units) and elsewhere in this Agreement (including any exhibit hereto creating any new class or series of LTIP Units) or in the Equity Incentive Plan or the award, vesting, or other agreement pursuant to which an LTIP Unit is granted to the holder thereof. The allocation of LTIP Units among the Partners shall be set forth on Exhibit A attached hereto, as such Exhibit A may be amended from time to time.

**"LTIP Unitholder"** means a Partner that holds LTIP Units.

**"Majority in Interest of the Outside Limited Partners"** means Limited Partners (excluding for this purpose (i) any Limited Partnership Interests held by SFTY or its Subsidiaries, (ii) any Person of which SFTY or its Subsidiaries directly or indirectly owns or controls more than fifty percent (50%) of the voting interests and (iii) any Person directly or indirectly owning or controlling more than fifty percent (50%) of the outstanding interests of SFTY) holding in the aggregate Percentage Interests that are greater than fifty percent (50%) of the aggregate Percentage Interests of all such Limited Partners of all classes who are not excluded for the purpose of granting Consent to the applicable action.

**"Management Agreement"** means the Management Agreement, dated \_\_\_\_\_, 2017, among SFTY, the Partnership and the Manager, as the same maybe amended from time to time, providing for the Manager to manage the day to day operations of SFTY and its Subsidiaries, including the Partnership.

**"Manager"** means SFTY Manager LLC, the external manager of SFTY, or any successor external manager to SFTY selected by the Board of Directors.

**"Market Price"** has the meaning set forth in the definition of "Value."

“**National Securities Exchange**” means an exchange registered with the SEC under Section 6(a) of the Exchange Act or any other exchange (domestic or foreign, and whether or not so registered) designated by the General Partner as a National Securities Exchange.

11

---

“**Net Income**” or “**Net Loss**” means, for each Partnership Year of the Partnership, an amount equal to the Partnership’s taxable income or loss for such year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

- (a) Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of “Net Income” or “Net Loss” shall be added to (or subtracted from, as the case may be) such taxable income (or loss);
- (b) Any expenditure of the Partnership described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of “Net Income” or “Net Loss,” shall be subtracted from (or added to, as the case may be) such taxable income (or loss);
- (c) In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subsection (b) or subsection (c) of the definition of “Gross Asset Value,” the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;
- (d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;
- (e) In lieu of the depreciation, amortization and other cost recovery deductions that would otherwise be taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Partnership Year;
- (f) To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner’s interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss; and
- (g) Notwithstanding any other provision of this definition of “Net Income” or “Net Loss,” any item that is specially allocated pursuant to Section 6.3 hereof shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Partnership income, gain, loss or deduction available to be specially

12

---

allocated pursuant to Section 6.3 hereof shall be determined by applying rules analogous to those set forth in this definition of “Net Income” or “Net Loss.”

“**New Securities**” means (i) any rights, options, warrants or convertible or exchangeable securities having the right to subscribe for or purchase REIT Shares, Preferred Shares or Junior Shares, except that “New Securities” shall not mean any Preferred Shares, Junior Shares or grants under the Equity Incentive Plans or (ii) any Debt issued by SFTY that provides any of the rights described in clause (i).

“**Nonrecourse Deductions**” has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

“**Nonrecourse Liability**” has the meaning set forth in Regulations Section 1.752-1(a)(2).

“**Notice of Redemption**” means the Notice of Redemption substantially in the form of Exhibit B attached to this Agreement.

“**OP Unit**” means a fractional share of the Partnership Interests of all Partners that is designated as a Partnership Unit and issued pursuant to Sections 4.1 and 4.2 hereof, but does not include any LTIP Unit, Preferred Unit, Junior Unit or any other Partnership Unit specified in a Partnership Unit Designation as being other than an OP Unit; **provided, however, that** the General Partner Interest and the Limited Partner Interests shall have the differences in rights and privileges as specified in this Agreement.

“**OP Unit Economic Balance**” has the meaning set forth in Section 6.3(c) hereof.

“**Original Agreement**” means the original Agreement of Limited Partnership, dated as of October 17, 2016.

“**Outside Interest**” has the meaning set forth in Section 5.2 hereof.

“**Ownership Limit**” means the applicable restriction or restrictions on ownership of shares of SFTY imposed under the Charter.

“**Partner**” means the General Partner or a Limited Partner, and “**Partners**” means the General Partner and the Limited Partners.

“**Partner Minimum Gain**” means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

“**Partner Nonrecourse Debt**” has the meaning set forth in Regulations Section 1.704-2(b)(4).

“**Partner Nonrecourse Deductions**” has the meaning set forth in Regulations Section 1.704-2(i)(2), and the amount of Partner Nonrecourse Deductions with respect to a

Partner Nonrecourse Debt for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

“**Partnership**” means the limited partnership formed under the Act and pursuant to this Agreement, and any successor thereto.

“**Partnership Interest**” means an ownership interest in the Partnership held by either a Limited Partner or the General Partner and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. There may be one or more classes or series of Partnership Interests. A Partnership Interest may be expressed as a number of OP Units, LTIP Units, Preferred Units, Junior Units or other Partnership Units.

“**Partnership Minimum Gain**” has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Partnership Minimum Gain, as well as any net increase or decrease in Partnership Minimum Gain, for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

“**Partnership Record Date**” means the record date established by the General Partner in its sole discretion (a) for determining the Partners entitled to notice of or to vote at any meeting of Partners or to Consent to any matter or (b) for the distribution of Available Cash pursuant to Section 5.1 hereof, which record date shall generally be the same as the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such distribution.

“**Partnership Unit**” shall mean an OP Unit, an LTIP Unit, a Preferred Unit, a Junior Unit or any other fractional share of the Partnership Interests that the General Partner has authorized pursuant to Sections 4.1, 4.2, 4.3 or 4.4 hereof.

“**Partnership Unit Designation**” has the meaning set forth in Section 4.3 hereof.

“**Partnership Unit Distribution**” shall have the meaning set forth in Section 4.6(a) hereof.

“**Partnership Year**” means the fiscal year of the Partnership and the Partnership’s taxable year for federal income tax purposes, each of which shall be the calendar year unless otherwise required under the Code.

“**Percentage Interest**” means, (i) as to any holder of OP Units (subject to Section 4.6(a)), the quotient obtained by dividing the number of OP Units owned by such Partner as shown on Exhibit A attached hereto, as such Exhibit A may be amended from time to time, by the total number of OP Units then outstanding as specified on Exhibit A attached hereto, as such Exhibit A may be amended from time to time, and (ii) as to a Partner holding any class (other than OP Units) or series of Partnership Interests, its interest in such class or series as determined by dividing the Partnership Units of such class or series owned by such Partner as shown on Exhibit A attached hereto, as such Exhibit A may be amended from time to time, by the total number of Partnership Units of such class then outstanding as specified on Exhibit A attached hereto, as

such Exhibit A may be amended from time to time. If the Partnership issues additional classes or series of Partnership Interests other than as contemplated herein, the interest in the Partnership among the classes or series of Partnership Interests shall be determined as set forth in the amendment to the Partnership Agreement setting forth the rights and privileges of such additional classes or series of Partnership Interest, if any, as contemplated by Section 4.3(a).

“**Person**” means an individual or a corporation, partnership (general or limited), trust, estate, custodian, nominee, unincorporated organization, association, limited liability company or any other individual or entity in its own or any representative capacity.

“**Preferred Share**” means a share of capital stock of SFTY now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the REIT Shares.

“**Preferred Unit**” means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Sections 4.1, 4.3 or 4.4 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the OP Units.

“**Properties**” means any assets and property of the Partnership such as, but not limited to, interests in real property and personal property, including, without limitation, fee interests, interests in ground leases, interests in leases other than ground leases, interests in Debt instruments, interests in mortgages, interests in securities, easements and rights of way, and interests in limited liability companies, corporations, joint ventures, partnerships or other entities as the Partnership may hold from time to time and “**Property**” shall mean any one such asset or property.

“**Publicly Traded**” means listed or admitted to trading on the New York Stock Exchange, the American Stock Exchange, the NASDAQ Stock Market or another National Securities Exchange or any successor to the foregoing.

“**Qualified Assets**” means any of the following assets: (i) interests, rights, options, warrants or convertible or exchangeable securities of the Partnership; (ii) Debt issued by the Partnership or any Subsidiary thereof in connection with the incurrence of Funding Debt; (iii) equity interests in Qualified REIT Subsidiaries and limited liability companies (or other entities disregarded from their sole owner for U.S. federal income tax purposes, including wholly owned grantor trusts) whose assets consist solely of Qualified Assets; (iv) up to a one percent (1%) equity interest in any partnership or limited liability company at least ninety-nine percent (99%) of the equity of which is owned, directly or indirectly, by the Partnership; (v) cash held for payment of administrative expenses or pending distribution to security holders of the General Partner or any wholly owned Subsidiary thereof or pending contribution to

the Partnership; and (vi) other tangible and intangible assets that, taken as a whole, are *de minimis* in relation to the net assets of the Partnership and its Subsidiaries.

“**Qualified REIT Subsidiary**” means any Subsidiary of SFTY or the General Partner that is a “qualified REIT subsidiary” within the meaning of Code Section 856(i).

“**Qualified Transferee**” means an “Accredited Investor” as defined in Rule 501 promulgated under the Securities Act.

15

---

“**Recourse Liabilities**” means the amount of liabilities owed by the Partnership (other than Nonrecourse Liabilities and liabilities to which Partner Nonrecourse Deductions are attributable in accordance with Section 1.704-(2)(i) of the Regulations).

“**Redemption**” has the meaning set forth in Section 8.6(a) hereof.

“**Regulations**” means the applicable income tax regulations under the Code, whether such regulations are in proposed, temporary or final form, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“**Regulatory Allocations**” has the meaning set forth in Section 6.3(a)(vii) hereof.

“**REIT**” means a real estate investment trust qualifying under Code Section 856.

“**REIT Payment**” has the meaning set forth in Section 15.11 hereof.

“**REIT Requirements**” has the meaning set forth in Section 5.1 hereof.

“**REIT Share**” means a share of SFTY’s common stock, par value \$0.01 per share. Where relevant in this Agreement, “REIT Share” includes shares of SFTY’s common stock, par value \$0.01 per share, issued upon conversion of Preferred Shares or Junior Shares.

“**REIT Shares Amount**” means a number of REIT Shares equal to the product of (a) the number of Tendered Units and (b) the Adjustment Factor in effect on the Specified Redemption Date with respect to such Tendered Units; **provided, however, that** in the event that SFTY issues to all holders of REIT Shares as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling SFTY’s stockholders to subscribe for or purchase REIT Shares, or any other securities or property (collectively, the “**Rights**”), with the record date for such Rights issuance falling within the period starting on the date of the Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the REIT Shares Amount shall also include such Rights that a holder of that number of REIT Shares would be entitled to receive, expressed, where relevant hereunder, in a number of REIT Shares determined by the General Partner in good faith.

“**Rights**” has the meaning set forth in the definition of “REIT Shares Amount.”

“**SEC**” means the United States Securities and Exchange Commission or any similar agency then having jurisdiction to enforce the Securities Act.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“**Services Agreement**” means any brokerage, management, construction, development or advisory agreement with a property and/or asset manager for the provision of brokerage, property management, asset management, leasing, construction, development and/or similar services with respect to the Properties and any agreement for the provision of services of

16

---

accountants, legal counsel, appraisers, insurers, brokers, transfer agents, registrars, developers, financial advisors and other professional services.

“**Specified Redemption Date**” means the 10th Business Day following receipt by the General Partner of a Notice of Redemption; **provided, that**, if the REIT Shares are not Publicly Traded, the Specified Redemption Date means the thirtieth (30th) Business Day following receipt by the General Partner of a Notice of Redemption.

“**SFTY Employee**” means any employee of the Manager, SFTY, the Partnership, the General Partner and any of their Subsidiaries.

“**SFTY Loan**” has the meaning set forth in Section 4.4(d) hereof.

“**Subsidiary**” means, with respect to any Person, any other Person (which is not an individual) of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by such Person.

“**Substituted Limited Partner**” means a Person who is admitted as a Limited Partner to the Partnership pursuant to Section 11.4 hereof.

“**Successor Entity**” has the meaning set forth in the definition of “Adjustment Factor.”

“**Target Balance**” has the meaning set forth in Section 6.3(c) hereof.

“**Tax Items**” has the meaning set forth in Section 6.4(a) hereof.

“**Tendered Units**” has the meaning set forth in Section 8.6(a) hereof.

“**Tendering Partner**” has the meaning set forth in Section 8.6(a) hereof.

“**Tendering Party**” has the meaning set forth in Section 8.6(a) hereof.

“**Terminating Capital Transaction**” means any sale or other disposition of all or substantially all of the assets of the Partnership or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Partnership.

“**Termination Transaction**” has the meaning set forth in Section 11.2(b) hereof.

“**Transaction**” shall have the meaning set forth in Section 4.7(f).

“**Transfer**,” when used with respect to a Partnership Unit, or all or any portion of a Partnership Interest, means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary or involuntary or by operation of law; **provided, however, that** when the term is used in Article XI hereof, “Transfer” does not include (a) any Redemption of Partnership Units by the Partnership or the General Partner, or acquisition of Tendered Units by the General Partner, pursuant to Section 8.6 hereof or (b) any redemption of Partnership Units

17

---

pursuant to any Partnership Unit Designation. The terms “**Transferred**” and “**Transferring**” have correlative meanings.

“**Unvested LTIP Units**” has the meaning set forth in Section 4.6(c)(i) hereof.

“**U.S. GAAP**” means U.S. generally accepted accounting principles consistently applied.

“**Value**” means, on any date of determination with respect to a REIT Share, the Market Price of a REIT Share on such date of determination except that, as provided in Section 4.5(b) hereof, the Market Price for the trading day immediately preceding the date of exercise of a stock option under any Equity Incentive Plan shall be substituted for such price for purposes of Section 4.5 hereof; **provided, however, that** for purposes of Section 8.6, the “date of determination” shall be the date of receipt by the General Partner of a Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day. The term “**Market Price**” on any date shall mean, with respect to any class or series of outstanding REIT Shares, the Closing Price for such REIT Shares on such date. The “**Closing Price**” on any date shall mean: (i) if the REIT Shares are listed or admitted to trading on any National Securities Exchange, the closing price, regular way, on such day as reported by such National Securities Exchange, or if no such sale takes place on such day, the average of the closing bid and asked prices on such day; (ii) if the REIT Shares are not listed or admitted to trading on any National Securities Exchange, the last reported sale price on such day or, if no sale takes place on such day, the average of the closing bid and asked prices on such day, as reported by a reliable quotation source designated by the General Partner; (iii) if the REIT Shares are not listed or admitted to trading on any National Securities Exchange and no such last reported sale price or closing bid and asked prices are available, the average of the reported high bid and low asked prices on such day, as reported by a reliable quotation source designated by the General Partner, or if there shall be no bid and asked prices on such day, the average of the high bid and low asked prices, as so reported, on the most recent day (not more than ten (10) days prior to the date in question) for which prices have been so reported; or (iv) if none of the conditions set forth in clauses (i), (ii), or (iii) is met then, unless the holder of the REIT Shares or Common Units and the General Partner otherwise agree, with respect to a REIT Share per Common Unit offered for redemption, the amount that a Holder of one Common Unit would receive if each of the assets of the Partnership were sold for its fair market value on the Specified Redemption Date, the Partnership were to pay all of its outstanding liabilities, and the remaining proceeds were to be distributed to the Partners in accordance with the terms of this Agreement.

In the event that the REIT Shares Amount includes Rights that a holder of REIT Shares would be entitled to receive, then the Value of such Rights shall be determined by the General Partner acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

“**Vested LTIP Units**” has the meaning set forth in Section 4.6(c)(i) hereof.

“**Vesting Agreement**” means each or any, as the context implies, Equity Incentive Plan entered into by an LTIP Unitholder upon acceptance of an award of LTIP Units under an Equity Incentive Plan.

18

---

## ARTICLE II

### ORGANIZATIONAL MATTERS

Section 2.1. **Organization.** The Partnership is a limited partnership organized pursuant to the provisions of the Act and upon the terms and subject to the conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Act. The Partnership Interest of each Partner shall be personal property for all purposes.

Section 2.2. **Name.** The name of the Partnership is “Safety Income and Growth Operating Partnership LP”. The Partnership’s business may be conducted under any other name or names deemed advisable by the General Partner, including the name of the General Partner or any Affiliate thereof. The words “Limited Partnership,” “LP,” “L.P.,” “Ltd.” or similar words or letters shall be included in the Partnership’s name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The General Partner in its sole and absolute discretion may change the name of the Partnership at any time and from time to time and shall notify the Partners of such change in the next regular communication to the Partners.

Section 2.3. **Registered Office and Agent; Principal Office.** The address of the registered office of the Partnership in the State of Delaware is located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, and the registered agent for service of process on the Partnership in the State of Delaware at such registered office is Corporation Service Company. The principal office of the Partnership is located at 1114 Avenue of the Americas,

Section 2.4. **Power of Attorney.**

(a) By executing this Agreement, each Limited Partner and each Assignee irrevocably constitutes and appoints the General Partner, any Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

(i) execute, swear to, seal, acknowledge, deliver, file and record in the appropriate public offices (a) all certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate of Limited Partnership and all amendments, supplements or restatements thereof) that the General Partner or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and in all other jurisdictions in which the Partnership may conduct business or own property; (b) all instruments that the General Partner or the Liquidator deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the General Partner or the

19

---

Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the distribution or exchange of assets of the Partnership pursuant to the terms of this Agreement; (e) all instruments relating to the admission, withdrawal, removal or substitution of any Partner pursuant to, or other events described in, Article XI, Article XII or Article XIII hereof or the Capital Contribution of any Partner; and (f) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges relating to Partnership Interests; and

(ii) execute, swear to, acknowledge and file all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Partners hereunder or is consistent with the terms of this Agreement or appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to effectuate the terms or intent of this Agreement.

Nothing contained herein shall be construed as authorizing the General Partner or the Liquidator to amend this Agreement except in accordance with Article XIV hereof or as may be otherwise expressly provided for in this Agreement.

(b) The foregoing power of attorney is hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that each of the Limited Partners and Assignees will be relying upon the power of the General Partner or the Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive and not be affected by the subsequent Incapacity of any Limited Partner or Assignee and the Transfer of all or any portion of such Limited Partner's or Assignee's Partnership Units or Partnership Interest and shall extend to such Limited Partner's or Assignee's heirs, successors, assigns and personal representatives. Each such Limited Partner or Assignee hereby agrees to be bound by any representation made by the General Partner or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Limited Partner or Assignee hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the General Partner or the Liquidator, taken in good faith under such power of attorney. Each Limited Partner or Assignee shall execute and deliver to the General Partner or the Liquidator, within fifteen (15) days after receipt of the General Partner's or the Liquidator's request therefor, such further designation, powers of attorney and other instruments as the General Partner or the Liquidator, as the case may be, deems necessary to effectuate this Agreement and the purposes of the Partnership. Notwithstanding anything else set forth in this Section 2.4(b), no Limited Partner shall incur any personal liability for any action of the General Partner or the Liquidator taken under such power of attorney.

Section 2.5. **Term.** Pursuant to Sections 17-201(b) and 17-801 of the Act, the term of the Partnership commenced on October 17, 2017 and shall continue perpetually, unless it is dissolved pursuant to the provisions of Article X hereof or as otherwise provided by law.

20

---

Section 2.6. **Partnership Interests as Securities.** All Partnership Interests shall be securities within the meaning of, and governed by, (i) Article 8 of the Delaware Uniform Commercial Code and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction.

### ARTICLE III

#### PURPOSE

Section 3.1. **Purpose and Business.** The purpose and nature of the Partnership is to conduct any business, enterprise or activity permitted by or under the Act; **provided, however**, such business and arrangements and interests may be limited to and conducted in such a manner as to permit SFTY, at all times to be classified as a REIT unless SFTY, in its sole discretion has chosen to cease to qualify as a REIT or has chosen not to attempt to qualify as a REIT for any reason. Without limiting SFTY's right in its sole discretion to cease qualifying as a REIT, the Partners acknowledge that the qualification of SFTY as a REIT inures to the benefit of all Partners and not solely to the General Partner or its Affiliates. In connection with the foregoing, the Partnership shall have full power and authority to enter into, perform and carry out contracts of any kind, to borrow and lend money and to issue and guarantee evidence of indebtedness, whether or not secured by mortgage, deed of trust, pledge or other lien and, directly or indirectly, to acquire and originate additional Properties necessary, useful or desirable in connection with its business.

Section 3.2. **Powers.**

(a) The Partnership shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Partnership.



(b) The Partnership may contribute from time to time Partnership capital to one or more newly formed entities solely in exchange for equity interests therein (or in a wholly owned subsidiary entity thereof).

(c) Notwithstanding any other provision in this Agreement, the General Partner may cause the Partnership not to take, or to refrain from taking, any action that, in the judgment of the General Partner, in its sole and absolute discretion, (i) could adversely affect the ability of SFTY to continue to qualify as a REIT, (ii) could subject SFTY to any additional taxes under Code Section 857 or Code Section 4981 or any other related or successor provision of the Code or (iii) could violate any law or regulation of any governmental body or agency having jurisdiction over the General Partner, SFTY, their respective securities or the Partnership.

Section 3.3. **Partnership Only for Partnership Purposes Specified.** This Agreement shall not be deemed to create a company, venture or partnership between or among the Partners with respect to any activities whatsoever other than the activities within the purposes of the Partnership as specified in Section 3.1 hereof. Except as otherwise provided in this Agreement, no Partner shall have any authority to act for, bind, commit or assume any obligation or

21

---

responsibility on behalf of the Partnership, its properties or any other Partner. No Partner, in its capacity as a Partner under this Agreement, shall be responsible or liable for any indebtedness or obligation of another Partner, and the Partnership shall not be responsible or liable for any indebtedness or obligation of any Partner, incurred either before or after the execution and delivery of this Agreement by such Partner, except as to those responsibilities, liabilities, indebtedness or obligations incurred pursuant to and as limited by the terms of this Agreement and the Act.

Section 3.4. **Representations and Warranties by the Parties.**

(a) Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner, respectively) represents and warrants to, and covenants with, each other Partner that (i) the consummation of the transactions contemplated by this Agreement to be performed by such Partner will not result in a breach or violation of, or a default under, any material agreement by which such Partner or any of such Partner's property is bound, or any statute, regulation, order or other law to which such Partner is subject, (ii) subject to the last sentence of this Section 3.4(a), such Partner is neither a "foreign person" within the meaning of Code Section 1445(f) nor a "foreign partner" within the meaning of Code Section 1446(e), (iii) such Partner has the legal capacity to enter into this Agreement and perform such Partner's obligations hereunder, (iv) without the consent of the General Partner, such Partner shall not take any action that would cause the Partnership at any time to have more than 100 Partners, including as Partners those Persons (each such Person, a "Flow-Through Partner") indirectly owning an interest in the Partnership through an entity treated as a partnership, disregarded entity, S corporation or grantor trust for U.S. federal income tax purposes (each such entity, a "Flow-Through Entity"), but only if substantially all of the value of such Person's interest in the Flow-Through Entity is attributable to the Flow-Through Entity's interest (direct or indirect) in the Partnership, and (v) this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms. Notwithstanding anything contained herein to the contrary, in the event that the representation contained in the foregoing clause (ii) would be inaccurate if given by a Partner, such Partner (w) shall not be required to make and shall not be deemed to have made such representation, if it delivers to the General Partner in connection with or prior to its execution of this Agreement written notice that it may not truthfully make such representation, (x) hereby agrees that it is subject to, and hereby authorizes the General Partner to withhold, all withholdings to which such a "foreign person" or "foreign partner," as applicable, is subject under the Code and (y) hereby agrees to cooperate fully with the General Partner with respect to such withholdings, including by effecting the timely completion and delivery to the General Partner of all governmental forms required in connection therewith.

(b) Each Partner acquiring OP Units (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner) represents, warrants and agrees that it has acquired and continues to hold its interest in the Partnership for its own account for investment purposes only and not for the purpose of, or with a view toward, the resale or distribution of all or any part thereof in violation of applicable laws, and not with a view toward selling or otherwise distributing such interest or any part thereof at any particular time or under any predetermined circumstances in violation of applicable laws. Each Partner acquiring OP

22

---

Units further represents and warrants that it is a sophisticated investor, able and accustomed to handling sophisticated financial and tax matters for itself, particularly real estate investments, and that it has a sufficiently high net worth that it does not anticipate a need for the funds that it has invested in the Partnership in what it understands to be a highly speculative and illiquid investment.

(c) The representations and warranties contained in Sections 3.4(a) and 3.4(b) hereof shall survive the execution and delivery of this Agreement by each Partner (and, in the case of an Additional Limited Partner or a Substituted Limited Partner, the admission of such Additional Limited Partner or Substituted Limited Partner as a Limited Partner in the Partnership) and the dissolution, liquidation and termination of the Partnership.

(d) Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner) hereby acknowledges that no representations as to potential profit, cash flows, funds from operations or yield, if any, in respect of the Partnership, the General Partner or SFTY have been made by the General Partner, any Partner or any employee or representative or Affiliate of the General Partner or any Partner, and that projections and any other information, including, without limitation, financial and descriptive information and documentation, that may have been in any manner submitted to such Partner shall not constitute any representation or warranty of any kind or nature, express or implied.

(e) Notwithstanding the foregoing, the General Partner may, in its sole and absolute discretion, permit the modification of any of the representations and warranties contained in Sections 3.4(a) and 3.4(b) above as applicable to any Partner (including, without limitation any Additional Limited Partner or Substituted Limited Partner or any transferee of either), **provided, that** such representations and warranties, as modified, shall be set forth in either (i) a Partnership Unit Designation applicable to the Partnership Units held by such Partner or (ii) a separate writing addressed to the Partnership and the General Partner

## CAPITAL CONTRIBUTIONS

### Section 4.1. Capital Contributions of the Partners.

(a) **Capital Contributions.** Each Partner has made a Capital Contribution to the Partnership and owns Partnership Units in the amount and designation set forth for such Partner on Exhibit A attached hereto, as such Exhibit A may be amended from time to time by the General Partner to the extent necessary to reflect accurately sales, exchanges, conversions or other Transfers, redemptions, Capital Contributions, the issuance of additional Partnership Units, or similar events having an effect on a Partner's ownership of Partnership Units. Except as provided by law or in Section 4.4, 10.4 or Section 13.2(c) hereof, the Partners shall have no obligation or right to make any additional Capital Contributions or loans to the Partnership.

(b) **General Partnership Interest.** A number of OP Units held by the General Partner equal to one percent (1%) of all outstanding OP Units shall be deemed to be the

23

---

General Partner Interest of the General Partner. All other Partnership Units, if any, held by the General Partner shall be deemed to be Limited Partner Interests and shall be held by the General Partner in its capacity as a Limited Partner in the Partnership.

Section 4.2. **Classes and Series of Partnership Units.** From and after the Effective Date, until such time as additional classes or series of Partnership Units are created pursuant to Section 4.3(a) below, the Partnership shall have two classes of Partnership Units, entitled "OP Units" and "LTIP Units." The OP Units shall consist of one series of Partnership Units, entitled "Operating Partnership Units". Subject to Section 4.6, OP Units, LTIP Units, or Partnership Units of any additional class or series, at the election of the General Partner, in its sole and absolute discretion, may be issued to newly admitted Partners in exchange for any Capital Contributions by such Partners and/or the provision of services by such Partners. Any Partnership Unit that is not specifically designated by the General Partner as being of a particular class or series shall be deemed to be an OP Unit.

### Section 4.3. Issuances of Additional Partnership Interests.

(a) **General.** Notwithstanding Section 7.3(b) hereof, the General Partner is hereby authorized to cause the Partnership to issue additional Partnership Interests, in the form of Partnership Units, for any Partnership purpose, at any time or from time to time, to the Partners (including the General Partner) or to other Persons, and to admit such Persons as Additional Limited Partners, for such consideration and on such terms and conditions as shall be established by the General Partner in its sole and absolute discretion, all without the approval of any Limited Partners. Without limiting the foregoing, the General Partner is expressly authorized to cause the Partnership to issue Partnership Units (i) upon the conversion, redemption or exchange of any Debt, Partnership Units or other securities issued by the Partnership, (ii) for less than fair market value, so long as the General Partner concludes in good faith that such issuance is in the best interests of the General Partner and the Partnership and (iii) in connection with any merger of any other Person into the Partnership or any Subsidiary of the Partnership if the applicable merger agreement provides that Persons are to receive Partnership Units in exchange for their interests in the Person merging into the Partnership or any Subsidiary of the Partnership. Any Partnership Unit that is not specifically designated by the General Partner as being of a particular class or series shall be deemed to be an OP Unit. Subject to Delaware law, any additional Partnership Interests may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences and relative, participating, optional or other special rights, powers and duties as shall be determined by the General Partner, in its sole and absolute discretion without the approval of any Limited Partner, and set forth in a written document thereafter attached to and made an exhibit to this Agreement which exhibit shall be an amendment to this Agreement and shall be incorporated herein by this reference (each, a "**Partnership Unit Designation**"). Without limiting the generality of the foregoing, the General Partner shall have authority to specify (a) the allocations of items of Partnership income, gain, loss, deduction and credit to each such class or series of Partnership Interests; (b) the right of each such class or series of Partnership Interests to share (on a *pari passu*, junior or preferred basis) in Partnership distributions; (c) the rights of each such class or series of Partnership Interests upon dissolution and liquidation of the Partnership; (d) the voting rights, if any, of each such class or series of Partnership Interests; and (e) the conversion, redemption or exchange rights applicable to each such class or series of Partnership Interests. Upon the issuance of any

24

---

additional Partnership Interest, the General Partner shall amend Exhibit A attached hereto as appropriate to reflect such issuance.

(b) **Issuances to the General Partner.** No additional Partnership Units shall be issued to the General Partner or SFTY unless (i) the additional Partnership Units are issued to all Partners in proportion to their respective Percentage Interests with respect to the class of Partnership Units so issued, (ii) (a) the additional Partnership Units are (x) OP Units issued in connection with an issuance of REIT Shares or (y) Partnership Units (other than OP Units) issued in connection with an issuance of Preferred Shares, Junior Shares, New Securities or other interests in SFTY (other than REIT Shares), which Preferred Shares, Junior Shares, New Securities or other interests have designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of the additional Partnership Units issued to the General Partner or SFTY and (b) each of the General Partner and SFTY directly or indirectly contributes or otherwise causes to be transferred to the Partnership the cash proceeds or other consideration, if any, received in connection with the issuance of such REIT Shares, Preferred Shares, Junior Shares, New Securities or other interests in SFTY or (iii) the additional Partnership Units are issued upon the conversion, redemption or exchange of Debt, Partnership Units or other securities issued by the Partnership. In the event that the Partnership issues additional Partnership Units pursuant to this Section 4.3(b), the General Partner shall make such revisions to this Agreement (including but not limited to the revisions described in Sections 6.2(b) and 8.6) as it determines are necessary to reflect the issuance of such additional Partnership Interests, without the approval of any Limited Partner.

(c) **No Preemptive Rights.** No Person, including, without limitation, any Partner or Assignee, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Partnership Interest.

### Section 4.4. Additional Funds and Capital Contributions.

(a) **General.** The General Partner may, at any time and from time to time, determine that the Partnership requires additional funds ("**Additional Funds**") for the acquisition or origination of additional Properties, for the redemption of Partnership Units or for such other purposes as the

General Partner may determine in its sole and absolute discretion. Additional Funds may be obtained by the Partnership, at the election of the General Partner, in any manner provided in, and in accordance with, the terms of this Section 4.4 without the approval of any Limited Partners.

(b) **Additional Capital Contributions.** The General Partner, on behalf of the Partnership, may obtain any Additional Funds by accepting Capital Contributions from any Partners or other Persons. In connection with any such Capital Contribution (of cash or property), the General Partner is hereby authorized to cause the Partnership from time to time to issue additional Partnership Units (as set forth in Section 4.3 above) in consideration therefor and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect the issuance of such additional Partnership Units.

25

---

(c) **Loans by Third Parties.** The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to any Person upon such terms as the General Partner determines appropriate, including making such Debt convertible, redeemable or exchangeable for Partnership Units or REIT Shares; **provided, however, that** the Partnership shall not incur any such Debt if any Partner would be personally liable for the repayment of such Debt (unless such Partner otherwise agrees).

(d) **General Partner Loans.** The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to SFTY or an Affiliate of SFTY (a "**SFTY Loan**"), if (i) such Debt is, to the extent permitted by law, on substantially the same terms and conditions (including interest rate, repayment schedule, and conversion, redemption, repurchase and exchange rights) as Funding Debt incurred by SFTY or such Affiliate, the net proceeds of which are loaned to the Partnership to provide such Additional Funds or (ii) such Debt is on terms and conditions no less favorable to the Partnership than would be available to the Partnership from any third party; **provided, however, that** the Partnership shall not incur any such Debt if (a) a breach, violation or default of such Debt would be deemed to occur by virtue of the Transfer by any Limited Partner of any Partnership Interest or (b) such Debt is recourse to any Partner (unless the Partner otherwise agrees).

(e) **Issuance of Securities by SFTY.** SFTY shall not issue any additional REIT Shares, Preferred Shares, Junior Shares or New Securities unless SFTY contributes directly or indirectly the cash proceeds or other consideration, if any, received from the issuance of such additional REIT Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, and from the exercise of the rights contained in any such additional New Securities, to the Partnership in exchange for (x) in the case of an issuance of REIT Shares, Partnership Units or (y) in the case of an issuance of Preferred Shares, Junior Shares or New Securities, Partnership Units with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Preferred Shares, Junior Shares or New Securities; **provided, however, that** notwithstanding the foregoing, SFTY may issue REIT Shares, Preferred Shares, Junior Shares or New Securities (a) pursuant to Section 4.5 or 8.6(b) hereof, (b) pursuant to a dividend or distribution (including any stock split) wholly or partly of REIT Shares, Preferred Shares, Junior Shares or New Securities to all of the holders of REIT Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, (c) upon a conversion, redemption or exchange of Preferred Shares, (d) upon a conversion of Junior Shares into REIT Shares, (e) upon a conversion, redemption, exchange or exercise of New Securities or, (f) pursuant to share grants or awards made pursuant to any equity Incentive Plan. In the event of any issuance of additional REIT Shares, Preferred Shares, Junior Shares or New Securities by SFTY, and the direct or indirect contribution to the Partnership, by SFTY, of the cash proceeds or other consideration received from such issuance, if any, the Partnership shall pay any expenses associated with such issuance, including any underwriting discounts or commissions (it being understood that if the proceeds actually received by SFTY are less than the gross proceeds of such issuance as a result of any underwriter's discount or other expenses paid or incurred in connection with such issuance, then SFTY shall be deemed to have made a Capital Contribution to the Partnership in the amount of the gross proceeds of such issuance and the Partnership shall be deemed simultaneously to have reimbursed SFTY pursuant to Section 7.4(b) for the amount of such underwriter's discount or other expenses, which discount and

26

---

expense shall be treated as an expense for the benefit of the Partnership for purposes of such Section).

(f) **Redemption of Securities of SFTY.** Except as otherwise provided in Section 8.6(b), if, at any time, any REIT Shares, Preferred Shares, Junior Shares or New Securities are redeemed or otherwise repurchased (whether by exercise of a put or call, automatically or by means of another arrangement) by SFTY for cash, the Partnership shall, immediately prior to such redemption or repurchase, redeem or repurchase an equal number of Partnership Units held by SFTY, in the case of REIT Shares, or, in the case of Preferred Shares, Junior Shares or New Securities, an equal number of Partnership Units held by SFTY with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Preferred Shares, Junior Shares or New Securities upon the same terms and for the same price per Partnership Unit as such REIT Shares, Preferred Shares, Junior Shares or New Securities are redeemed. If, at any time, any REIT Shares are redeemed or otherwise repurchased by SFTY, the Partnership shall, immediately prior to such redemption or repurchase, redeem or repurchase a number of Partnership Units held by SFTY equal to the quotient of (i) the REIT Shares so redeemed or repurchased, divided by (ii) the Adjustment Factor then in effect, such redemption or repurchase to be upon the same terms and for the same price per Partnership Unit (after giving effect to application of the Adjustment Factor) as such REIT Shares are redeemed or repurchased.

#### Section 4.5. **Equity Incentive Plan.**

(a) **Options Granted to General Partner Employees and Independent Directors.** If at any time or from time to time, in connection with an Equity Incentive Plan, a stock option granted for REIT Shares to a General Partner Employee or Independent Director is duly exercised:

(i) SFTY shall, as soon as practicable after such exercise, make or cause to be made directly or indirectly a Capital Contribution to the Partnership in an amount equal to the exercise price paid to SFTY by such exercising party in connection with the exercise of such stock option.

(ii) Notwithstanding the amount of the Capital Contribution actually made pursuant to Section 4.5(a)(i) hereof, SFTY shall be deemed to have contributed directly or indirectly to the Partnership, as a Capital Contribution, in consideration of an additional Limited Partner Interest (expressed in and as additional Partnership Units), an amount equal to the Value of a REIT Share as of the date of exercise multiplied by the number of REIT Shares then being issued in connection with the exercise of such stock option.

(iii) An equitable Percentage Interest adjustment shall be made in which SFTY shall be treated as having made a cash contribution equal to the amount described in Section 4.5(a)(ii) hereof.

(b) **Special Valuation Rule.** For purposes of this Section 4.5, in determining the Value of a REIT Share, only the trading date immediately preceding the exercise of the relevant stock option under the Equity Incentive Plan shall be considered.

27

(c) **Future Equity Incentive Plans.** Nothing in this Agreement shall be construed or applied to preclude or restrain SFTY from adopting, modifying or terminating any Equity Incentive Plan, for the benefit of employees, directors or other business associates of SFTY, the Manager, the General Partner, the Partnership or any of their Affiliates. The Limited Partners acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by SFTY, amendments to this Section 4.5 may become necessary or advisable and that any approval or consent of the Limited Partners required pursuant to the terms of this Agreement in order to effect any such amendments requested by the General Partner shall not be unreasonably withheld or delayed.

Section 4.6. **LTIP Units.**

(a) **Issuance of LTIP Units.** The General Partner may from time to time issue LTIP Units, in one or more classes or series established in accordance with Section 4.3, to Persons who provide services to the Partnership, for such consideration as the General Partner may determine to be appropriate, and admit such Persons as Limited Partners. Any provision herein relating to LTIP Units or LTIP Unitholders may be varied by the provisions applicable to an individual class or series of LTIP Units. Except to the extent a Capital Contribution is made with respect to an LTIP Unit, each LTIP Unit is intended to qualify as a profits interest in the Partnership within the meaning of the Code, the Regulations, and any published guidance by the IRS with respect thereto. Subject to the following provisions of this Section 4.6 and the special provisions of Section 4.7 and 6.3(c), LTIP Units shall be treated as OP Units, with all of the rights, privileges and obligations attendant thereto. For purposes of computing the Partners' Percentage Interests, holders of LTIP Units shall be treated as holders of OP Units and LTIP Units shall be treated as OP Units. In particular, the Partnership shall maintain at all times a one-to-one correspondence between LTIP Units and OP Units for conversion, distribution and other purposes, including without limitation complying with the following procedures:

(i) If an Adjustment Event (as defined below) occurs, then the General Partner shall make a corresponding adjustment to the LTIP Units to maintain the same correspondence between OP Units and LTIP Units as existed prior to such Adjustment Event. The following shall be Adjustment Events: (A) the Partnership makes a distribution on all outstanding OP Units in Partnership Units, (B) the Partnership subdivides the outstanding OP Units into a greater number of units or combines the outstanding OP Units into a smaller number of units, or (C) the Partnership issues any Partnership Units in exchange for its outstanding OP Units by way of a reclassification or recapitalization of its OP Units. If more than one Adjustment Event occurs, the adjustment to the LTIP Units need be made only once using a single formula that takes into account each and every Adjustment Event as if all Adjustment Events occurred simultaneously. For the avoidance of doubt, the following shall not be Adjustment Events: (x) the issuance of Partnership Units in a financing, reorganization, acquisition or other similar business transaction, (y) the issuance of Partnership Units pursuant to any employee benefit or compensation plan or distribution reinvestment plan, or (z) the issuance of any Partnership Units to SFTY or the General Partner in respect of a capital contribution to the Partnership of proceeds from the sale of securities by SFTY. If the Partnership takes an action affecting the OP Units other than actions specifically described above as "**Adjustment Events**" and in the opinion of the General Partner such action would require an adjustment to the LTIP Units to maintain the one-to-one correspondence described above, the General Partner

28

shall have the right to make such adjustment to the LTIP Units, to the extent permitted by law and by any Equity Incentive Plan, in such manner and at such time as the General Partner, in its sole discretion, may determine to be appropriate under the circumstances. If an adjustment is made to the LTIP Units as herein provided the Partnership shall promptly file in the books and records of the Partnership an officer's certificate setting forth such adjustment and a brief statement of the facts requiring such adjustment, which certificate shall be conclusive evidence of the correctness of such adjustment absent manifest error. Promptly after filing of such certificate, the Partnership shall mail a notice to each LTIP Unitholder setting forth the adjustment to his or her LTIP Units and the effective date of such adjustment; and

(ii) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, the LTIP Unitholders shall, when, as and if authorized and declared by the General Partner out of assets legally available for that purpose, be entitled to receive distributions in an amount per LTIP Unit equal to the distributions per OP Unit (the "**Partnership Unit Distribution**"), paid to holders of OP Units on such Partnership Record Date established by the General Partner with respect to such distribution. Subject to the terms of any LTIP Award or Vesting Agreement, so long as any LTIP Units are outstanding, no distributions (whether in cash or in kind) shall be authorized, declared or paid on OP Units, unless equal distributions have been or contemporaneously are authorized, declared and paid on the LTIP Units. Subject to the terms of any LTIP Award or Vesting Agreement, an LTIP Unitholder shall be entitled to transfer his or her LTIP Units to the same extent, and subject to the same restrictions as holders of OP Units are entitled to transfer their OP Units pursuant to Article XI of this Agreement.

(b) **Priority.** Subject to the provisions of this Section 4.6, the special provisions of Section 6.3(c) and the terms of any LTIP Award or Vesting Agreement, the LTIP Units shall rank *pari passu* with the OP Units as to the payment of regular and special periodic or other distributions and, subject to Sections 13.2(a)(iv) and Section 13.2(c) distribution of assets upon liquidation, dissolution or winding up. As to the payment of distributions and as to distribution of assets upon liquidation, dissolution or winding up, any class or series of Partnership Units or Partnership Interests which by its terms specifies that it shall rank junior to, on a parity with, or senior to the OP Units shall also rank junior to, or *pari passu* with, or senior to, as the case may be, the LTIP Units.

(c) **Special Provisions.** LTIP Units shall be subject to the following special provisions:

(i) **Vesting Agreements.** LTIP Units may, in the sole discretion of the General Partner, be issued subject to vesting, forfeiture and additional restrictions on transfer pursuant to the terms of a Vesting Agreement. The terms of any Vesting Agreement may be modified by the General Partner from time to time in its sole discretion, subject to any restrictions on amendment imposed by the relevant Vesting Agreement or by the Equity

(ii) **Forfeiture.** Unless otherwise specified in the Vesting Agreement, upon the occurrence of any event specified in a Vesting Agreement as resulting in either the right of the Partnership or the General Partner to repurchase LTIP Units at a specified purchase price or some other forfeiture of any LTIP Units, then if the Partnership or the General Partner exercises such right to repurchase or forfeiture in accordance with the applicable Vesting Agreement, the relevant LTIP Units shall immediately, and without any further action, be treated as cancelled and no longer outstanding for any purpose. Unless otherwise specified in the Vesting Agreement, no consideration or other payment shall be due with respect to any LTIP Units that have been forfeited, other than any distributions declared with respect to a Partnership Record Date prior to the effective date of the forfeiture.

(iii) **Allocations.** LTIP Unitholders shall be entitled to certain special allocations of gain under Section 6.3(c).

(iv) **Redemption.** The Redemption right provided to Limited Partners under Section 8.6 shall not apply with respect to LTIP Units unless and until they are converted to OP Units as provided in clause (v) below and Section 4.7.

(v) **Conversion to OP Units.** Vested LTIP Units are eligible to be converted into OP Units under Section 4.7.

(d) **Voting.** Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, LTIP Unitholders shall (a) have the same voting rights as a holder of OP Units, with the LTIP Units voting as a single class with the OP Units and having one vote per LTIP Unit; and (b) have the additional voting rights that are expressly set forth below. Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, so long as any LTIP Units remain outstanding, the Partnership shall not, without the affirmative vote of the holders of at least a majority of the LTIP Units outstanding at the time that would be adversely affected by the proposed action, given in person or by proxy, either in writing or at a meeting (voting separately as a class), amend, alter or repeal, whether by merger, consolidation or otherwise, the provisions of this Agreement applicable to LTIP Units as such so as to materially and adversely affect any right, privilege or voting power of the LTIP Units or the LTIP Unitholders as such, unless such amendment, alteration, or repeal affects equally, ratably and proportionately in all material respects the rights, privileges and voting powers of the holders of OP Units; but subject, in any event, to the following provisions:

(i) With respect to any Transaction, so long as the LTIP Units are treated in accordance with Section 4.7(f) hereof, the consummation of such Transaction shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers of the LTIP Units or the LTIP Unitholders as such; and

(ii) Any creation or issuance of any Partnership Units or of any class or series of Partnership Interest including without limitation additional OP Units, LTIP Units or Preferred Units, whether ranking senior to, junior to, or on a parity with the LTIP Units with respect to distributions and the distribution of assets upon liquidation, dissolution or winding up,

shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers of the LTIP Units or the LTIP Unitholders as such.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required will be effected, all outstanding LTIP Units shall have been converted into OP Units.

#### Section 4.7. **Conversion of LTIP Units.**

(a) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, an LTIP Unitholder shall have the right (the “**Conversion Right**”), at his or her option, at any time to convert all or a portion of his or her Vested LTIP Units into OP Units; **provided, however, that** a holder may not exercise the Conversion Right for less than one thousand (1,000) Vested LTIP Units or, if such holder holds less than one thousand (1,000) Vested LTIP Units, all of the Vested LTIP Units held by such holder. LTIP Unitholders shall not have the right to convert Unvested LTIP Units into OP Units until they become Vested LTIP Units; **provided, however, that** when an LTIP Unitholder is notified of the expected occurrence of an event that will cause his or her Unvested LTIP Units to become Vested LTIP Units, such LTIP Unitholder may give the Partnership a Conversion Notice conditioned upon and effective as of the time of vesting and such Conversion Notice, unless subsequently revoked by the LTIP Unitholder, shall be accepted by the Partnership subject to such condition. In all cases, the conversion of any LTIP Units into OP Units shall be subject to the conditions and procedures set forth in this Section 4.7.

(b) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, a holder of Vested LTIP Units may convert such Units into an equal number of fully paid and nonassessable OP Units, giving effect to all adjustments (if any) made pursuant to Section 4.6. Notwithstanding the foregoing, in no event may a holder of Vested LTIP Units convert a number of Vested LTIP Units that exceeds (x) the Economic Capital Account Balance of such Limited Partner, to the extent attributable to its ownership of LTIP Units, divided by (y) the OP Unit Economic Balance, in each case as determined as of the effective date of conversion (the “**Capital Account Limitation**”). In order to exercise his or her Conversion Right, an LTIP Unitholder shall deliver a notice (a “**Conversion Notice**”) in the form attached as Exhibit D to the Partnership (with a copy to the General Partner) not less than ten (10) nor more than sixty (60) days prior to a date (the “**Conversion Date**”) specified in such Conversion Notice; **provided, however, that** if the General Partner has not given to the LTIP Unitholders notice of a proposed or upcoming Transaction (as defined below in Section 4.7(f)) at least thirty (30) days prior to the effective date of such Transaction, then LTIP Unitholders shall have the right to deliver a Conversion Notice until the earlier of (x) the 10th day after such notice from the General Partner of a Transaction or (y) the third business day immediately preceding the effective date of such Transaction. A Conversion Notice shall be provided in the manner provided in Section 15.1. Each LTIP Unitholder covenants and agrees with the Partnership that all Vested LTIP Units to be converted pursuant to this Section 4.7(b) shall be free and clear of all liens. Notwithstanding anything herein to the contrary, a holder of LTIP Units may deliver a Notice of Redemption pursuant to Section 8.6(a) of this Agreement relating to those OP Units that will be issued to such holder upon conversion of such LTIP Units into OP Units in advance

of the Conversion Date; **provided, however, that** the redemption of such OP Units by the Partnership shall in no event take place until after the Conversion Date. For clarity, it is noted that the objective of this paragraph is to put an LTIP Unitholder in a position where, if he or she so wishes, the OP Units into which his or her Vested LTIP Units will be converted can be redeemed by the Partnership simultaneously with such conversion, with the further consequence that, if SFTY elects to assume the Partnership's redemption obligation with respect to such OP Units under Section 8.6(b) of this Agreement by delivering to such holder REIT Shares rather than cash, then such holder can have such REIT Shares issued to him or her simultaneously with the conversion of his or her Vested LTIP Units into OP Units. The General Partner and SFTY shall reasonably cooperate with an LTIP Unitholder to coordinate the timing of the different events described in the foregoing sentence.

(c) The Partnership, at any time at the election of the General Partner, may cause any number of Vested LTIP Units held by an LTIP Unitholder to be converted (a "**Forced Redemption**") into an equal number of OP Units, giving effect to all adjustments (if any) made pursuant to Section 4.6; **provided, however, that** the Partnership may not cause a Forced Redemption of any LTIP Units that would not at the time be eligible for conversion at the option of such LTIP Unitholder pursuant to Section 4.7(b). In order to exercise its right of Forced Redemption, the Partnership shall deliver a notice (a "**Forced Redemption Notice**") in the form attached as Exhibit E to the applicable LTIP Unitholder not less than ten (10) nor more than sixty (60) days prior to the Conversion Date specified in such Forced Redemption Notice. A Forced Redemption Notice shall be provided in the manner provided in Section 15.1.

(d) A conversion of Vested LTIP Units for which the holder thereof has given a Conversion Notice or the Partnership has given a Forced Redemption Notice shall occur automatically after the close of business on the applicable Conversion Date without any action on the part of such LTIP Unitholder, as of which time such LTIP Unitholder shall be credited on the books and records of the Partnership with the issuance as of the opening of business on the next day of the number of OP Units issuable upon such conversion. After the conversion of LTIP Units as aforesaid, the Partnership shall deliver to such LTIP Unitholder, upon his or her written request, a certificate of the General Partner certifying the number of OP Units and remaining LTIP Units, if any, held by such person immediately after such conversion. The Assignee of any Limited Partner pursuant to Article XI hereof may exercise the rights of such Limited Partner pursuant to this Section 4.7 and such Limited Partner shall be bound by the exercise of such rights by the Assignee.

(e) For purposes of making future allocations under Section 6.3(c) and applying the Capital Account Limitation, the portion of the Economic Capital Account balance of the applicable LTIP Unitholder that is treated as attributable to his or her LTIP Units shall be reduced, as of the date of conversion, by the product of the number of LTIP Units converted and the OP Unit Economic Balance.

(f) If the Partnership or SFTY shall be a party to any transaction (including without limitation a merger, consolidation, unit exchange, self tender offer for all or substantially all OP Units or other business combination or reorganization, or sale of all or substantially all of the Partnership's assets, but excluding any transaction which constitutes an Adjustment Event) in each case as a result of which OP Units shall be exchanged for or converted into the right, or the

holders of such Units shall otherwise be entitled, to receive cash, securities or other property or any combination thereof (any of the foregoing being referred to herein as a "**Transaction**"), then the General Partner shall, immediately prior to the Transaction, exercise its right to cause a Forced Redemption with respect to the maximum number of LTIP Units then eligible for conversion, taking into account any allocations that occur in connection with the Transaction or that would occur in connection with the Transaction if the assets of the Partnership were sold at the Transaction price or, if applicable, at a value determined by the General Partner in good faith using the value attributed to the Partnership Units in the context of the Transaction (in which case the Conversion Date shall be the effective date of the Transaction).

In anticipation of such Forced Redemption and the consummation of the Transaction, the Partnership shall use commercially reasonable efforts to cause each LTIP Unitholder to be afforded the right to receive in connection with such Transaction in consideration for the OP Units into which his or her LTIP Units will be converted the same kind and amount of cash, securities and other property (or any combination thereof) receivable upon the consummation of such Transaction by a holder of the same number of OP Units, assuming such holder of OP Units is not a Person with which the Partnership consolidated or into which the Partnership merged or which merged into the Partnership or to which such sale or transfer was made, as the case may be (a "**Constituent Person**"), or an affiliate of a Constituent Person. In the event that holders of OP Units have the opportunity to elect the form or type of consideration to be received upon consummation of the Transaction, prior to such Transaction the General Partner shall give prompt written notice to each LTIP Unitholder of such election, and shall use commercially reasonable efforts to afford the LTIP Unitholders the right to elect, by written notice to the General Partner, the form or type of consideration to be received upon conversion of each LTIP Unit held by such holder into OP Units in connection with such Transaction. If an LTIP Unitholder fails to make such an election, such holder (and any of its transferees) shall receive upon conversion of each LTIP Unit held by him or her (or by any of his or her transferees) the same kind and amount of consideration that a holder of a OP Unit would receive if such OP Unit holder failed to make such an election.

Subject to the rights of the Partnership, SFTY and the General Partner under any LTIP Award or Vesting Agreement and any Equity Incentive Plan, the Partnership shall use commercially reasonable effort to cause the terms of any Transaction to be consistent with the provisions of this Section 4.7(f) and to enter into an agreement with the successor or purchasing entity, as the case may be, for the benefit of any LTIP Unitholders whose LTIP Units will not be converted into OP Units in connection with the Transaction that will (i) contain provisions enabling the holders of LTIP Units that remain outstanding after such Transaction to convert their LTIP Units into securities as comparable as reasonably possible under the circumstances to the OP Units and (ii) preserve as far as reasonably possible under the circumstances the distribution, special allocation, conversion, and other rights set forth in this Agreement for the benefit of the LTIP Unitholders.

Section 4.8. **No Interest; No Return.** No Partner shall be entitled to interest on its Capital Contribution or on such Partner's Capital Account. Except as provided herein or by law, no Partner shall have any right to demand or receive the return of its Capital Contribution from the Partnership.

Section 4.9. **Other Contribution Provisions.** In the event that any Partner is admitted to the Partnership and is given a Capital Account in exchange for services rendered to the Partnership, unless otherwise determined by the General Partner in its sole and absolute discretion, such transaction shall be treated by the Partnership and the affected Partner as if the Partnership had compensated such partner in cash and such Partner had contributed the cash to the capital of the Partnership. In addition, with the consent of the General Partner, one or more Limited Partners may enter into contribution agreements with the Partnership which have the effect of providing a guarantee of certain obligations of the Partnership.

Section 4.10. **Not Taxable as a Corporation.** The General Partner, on behalf of the Partnership, shall use its best efforts not to take any action which would result in the Partnership being a publicly traded partnership taxable as a corporation under Code Section 7704.

Section 4.11. **No Third Party Beneficiary.** No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or of any of the Partners. In addition, it is the intent of the parties hereto that no distribution to any Limited Partner shall be deemed a return of money or other property in violation of the Act. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Limited Partner is obligated to return such money or property, such obligation shall be the obligation of such Limited Partner and not of the General Partner. Without limiting the generality of the foregoing, a deficit Capital Account of a Partner shall not be deemed to be a liability of such Partner nor an asset or property of the Partnership.

## ARTICLE V

### DISTRIBUTIONS

Section 5.1. **Requirement and Characterization of Distributions.** Subject to the terms of any Partnership Unit Designation, the General Partner may cause the Partnership to distribute at least quarterly all, or such portion as the General Partner may in its sole and absolute discretion determine, of Available Cash generated by the Partnership during such quarter to the Holders of Partnership Units on such Partnership Record Date with respect to such quarter: (1) first, with respect to any Partnership Interests that are entitled to any preference in distribution, in accordance with the rights of such class(es) of Partnership Interests (and, within such class(es), *pro rata* in proportion to the respective Percentage Interests on such Partnership Record Date) and (2) second, with respect to any Partnership Interests that are not entitled to any preference in distribution, in accordance with the rights of such class of Partnership Interests (and, within such class, *pro rata* in proportion to the respective Percentage Interests on such Partnership Record Date). At the election of the General Partner, distributions payable with

34

---

respect to any Partnership Units that were not outstanding during the entire quarterly period in respect of which any distribution is made may be prorated based on the portion of the period that such Partnership Units were outstanding.

The General Partner in its sole and absolute discretion may distribute to the Holders Available Cash on a more frequent basis and provide for an appropriate Partnership Record Date. Notwithstanding anything herein to the contrary, the General Partner shall make such reasonable efforts, as determined by it in its sole and absolute discretion and consistent with SFTY's qualification as a REIT, to cause the Partnership to distribute sufficient amounts to enable SFTY, for so long as SFTY has determined to qualify as a REIT, to pay stockholder dividends that will (a) satisfy the requirements for its qualification as a REIT under the Code and Regulations (the "**REIT Requirements**") and (b) except to the extent otherwise determined by SFTY, in its sole and absolute discretion, avoid any federal income or excise tax liability of SFTY.

Each distribution in respect of a Partnership Unit shall be paid by the Partnership, directly or through any other Person or agent, only to the Holder of such Partnership Unit as shown on Exhibit A attached hereto, as such Exhibit A may be amended from time to time, as of the Partnership Record Date set for such distribution. Such payment shall constitute full payment and satisfaction of the Partnership's liability in respect of such payment, regardless of any claim of a Person who may have an interest in such payment by reason of an assignment or otherwise.

Section 5.2. **Interests in Property not Held Through the Partnership.** To the extent amounts distributed by the Partnership are attributable to amounts received from a property in which the General Partner or any Affiliate of the General Partner holds a direct or indirect interest (other than through the Partnership) (an "**Outside Interest**"), (i) such amounts distributed to the General Partner will be reduced so as to take into account amounts received pursuant to the Outside Interest and (ii) the amounts distributed to the Limited Partners will be increased to the extent necessary so that the overall effect of the distribution is to distribute what would have been distributed had such Outside Interest been held through the Partnership (treating any distribution made in respect of the Outside Interest as if such distribution had been received by the General Partner).

Section 5.3. **Distributions In-Kind.** No right is given to any Partner to demand and receive property other than cash as provided in this Agreement. The General Partner may determine, in its sole and absolute discretion, to make a distribution in-kind of Partnership assets to the Holders, and such assets shall be distributed in such a fashion as to ensure that the fair market value is distributed and allocated in accordance with Articles V, VI and X hereof.

Section 5.4. **Amounts Withheld.** All amounts withheld pursuant to the Code or any provisions of any state or local tax law and Section 10.4 hereof with respect to any allocation, payment or distribution to any Holder shall be treated as amounts paid or distributed to such Holder pursuant to Section 5.1 hereof for all purposes under this Agreement.

Section 5.5. **Distributions Upon Liquidation.** Notwithstanding the other provisions of this Article V, net proceeds from a Terminating Capital Transaction, and any other cash received or reductions in reserves made after commencement of the liquidation of the Partnership, shall be distributed to the Holders in accordance with Section 13.2 hereof.

35

---

Section 5.6. **Distributions to Reflect Issuance of Additional Partnership Units.** Notwithstanding Section 7.3(b) hereof, in the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article IV hereof, subject to Section 7.3(d), the General Partner is hereby authorized to make such revisions to this Article V as it determines are necessary or desirable to reflect the issuance of such additional Partnership Units, including, without limitation, making preferential distributions to certain classes of Partnership Units.

Section 5.7. **Restricted Distributions.** Notwithstanding any provision to the contrary contained in this Agreement, neither the Partnership nor the General Partner, on behalf of the Partnership, shall make a distribution to any Holder on account of its Partnership Interest or interest in Partnership Units if such distribution would violate Section 17-607 of the Act or other applicable law.

## ARTICLE VI

### ALLOCATIONS

Section 6.1. **Timing and Amount of Allocations of Net Income and Net Loss.** Net Income and Net Loss of the Partnership shall be determined and allocated with respect to each Partnership Year of the Partnership as of the end of each such year. Except as otherwise provided in this Article VI, and subject to Section 11.6(c) hereof, an allocation to a Holder of a share of Net Income or Net Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Income or Net Loss.

#### Section 6.2. **General Allocations.**

##### (a) **Allocations of Net Income and Net Loss.**

(i) **Net Income.** Except as otherwise provided herein, Net Income for any Partnership Year or other applicable period shall be allocated in the following order and priority:

(A) *First*, to the General Partner to the extent the cumulative Net Loss allocated to the General Partner pursuant to subparagraph (ii)(D) below exceeds the cumulative Net Income allocated to the General Partner pursuant to this subparagraph (i)(A);

(B) *Second*, to the Holders of any Partnership Interests that are entitled to any preference in distribution upon liquidation until the cumulative Net Income allocated under this subparagraph (i)(B) equals the cumulative Net Loss allocated to such Partners under subparagraph (ii)(C);

(C) *Third*, to the Holders of any Partnership Units that are entitled to any preference in distribution in accordance with the rights of any other class of Partnership Units until each such Partnership Unit has been allocated, on a cumulative basis pursuant to this subparagraph (i)(C), Net Income equal to the amount of distributions received which are attributable to the preference of such class of Partnership Unit (and, within such class,

36

---

*pro rata* in proportion to the respective Percentage Interests as of the last day of the period for which such allocation is made); and

(D) *Thereafter*, with respect to Partnership Units that are not entitled to any preference in distribution or with respect to which distributions are not limited to any preference in distribution, *pro rata* to each such class in accordance with the terms of such class (and, within such class, *pro rata* in proportion to the respective Percentage Interests as of the last day of the period for which such allocation is being made).

(ii) **Net Loss.** Except as otherwise provided herein, Net Loss for any Partnership Year or other applicable period shall be allocated in the following order and priority:

(A) *First*, to each Holder of Partnership Units in proportion to and to the extent of the amount by which the cumulative Net Income allocated to such Partner pursuant to subparagraph (i)(D) above exceeds, on a cumulative basis, the sum of (a) distributions with respect to such Partnership Units pursuant to clause (2) of Section 5.1 and (b) Net Loss allocated to such Partner pursuant to this subparagraph (ii)(A);

(B) *Second*, with respect to classes of Partnership Units that are not entitled to any preference in distribution or with respect to which distributions are not limited to any preference in distribution, *pro rata* to each such class in accordance with the terms of such class (and within such class, *pro rata* in proportion to the respective Percentage Interests as of the last day of the period for which such allocation is being made); **provided, that** Net Loss shall not be allocated to any Partner pursuant to this subparagraph (ii)(B) to the extent that such allocation would cause such Partner to have an Adjusted Capital Account Deficit (or increase any existing Adjusted Capital Account Deficit) (determined in each case (1) with respect to a Partner who also holds classes of Partnership Units that are entitled to any preferences in distribution upon liquidation, by subtracting from such Partners' Adjusted Capital Account the amount of such preferred distribution to be made upon liquidation at the end of such Partnership Year or other applicable period;

(C) *Third*, with respect to classes of Partnership Units that are entitled to any preference in distribution upon liquidation, in reverse order of the priorities of each such class (and within each such class, *pro rata* in proportion to their respective Percentage Interests as of the last day of the period for which such allocation is being made); **provided, that** Net Loss shall not be allocated to any Partner pursuant to this subparagraph (ii)(C) to the extent that such allocation would cause such Partner to have an Adjusted Capital Account Deficit (or increase any existing Adjusted Capital Account Deficit) at the end of such Partnership Year or other applicable period;

(D) *Thereafter*, to the General Partner.

(b) **Allocations to Reflect Issuance of Additional Partnership Units.** Notwithstanding Section 7.3(b) hereof, in the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article IV hereof, the General Partner is hereby authorized to make such revisions to this Section 6.2 as it determines are necessary or desirable to reflect the terms of the issuance of such additional Partnership Units.

37



Section 6.3. **Additional Allocation Provisions.** Notwithstanding the foregoing provisions of this Article VI:

(a) **Regulatory Allocations.**

(i) **Minimum Gain Chargeback.** Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding the provisions of Section 6.2 hereof, or any other provision of this Article VI, if there is a net decrease in Partnership Minimum Gain during any Partnership Year, each Holder shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partnership Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 6.3(a)(i) is intended to qualify as a "minimum gain chargeback" within the meaning of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) **Partner Minimum Gain Chargeback.** Except as otherwise provided in Regulations Section 1.704-2(i)(4) or in Section 6.3(a)(i) hereof, if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership Year, each Holder who has a share of the Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each General Partner, Limited Partner and other Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 6.3(a)(ii) is intended to qualify as a "chargeback of partner nonrecourse debt minimum gain" within the meaning of Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(iii) **Nonrecourse Deductions and Partner Nonrecourse Deductions.** Any Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holders of Partnership Units in accordance with their Percentage Interests. Any Partner Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holder(s) who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable, in accordance with Regulations Section 1.704-2(i).

(iv) **Qualified Income Offset.** If any Holder unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Partnership income and gain shall be allocated, in accordance with Regulations Section 1.704-1(b)(2)(ii)(d), to such Holder in an amount and manner sufficient to eliminate, to the extent required by such Regulations, the Adjusted Capital Account Deficit of such Holder as quickly as possible. It is intended that this Section 6.3(a)(iv) qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

38

(v) **No Excess Deficit.** Loss or items thereof shall not be allocated to any Holder to the extent such allocation would cause an Adjusted Capital Account Deficit with respect to such Holder at the end of any Partnership Year.

(vi) **Section 754 Adjustment.** To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Holder in complete liquidation of its interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Holders in accordance with their Partnership Units in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Holders to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(vii) **Curative Allocations.** The allocations set forth in Section 6.3(a)(i), (ii), (iii), (iv), (v), and (vi) hereof (the "**Regulatory Allocations**") are intended to comply with certain regulatory requirements, including the requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of Section 6.1 hereof, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Holders of Partnership Units so that to the extent possible without violating the requirements giving rise to the Regulatory Allocations, the net amount of such allocations of other items and the Regulatory Allocations to each Holder of a Partnership Unit shall be equal to the net amount that would have been allocated to each such Holder if the Regulatory Allocations had not occurred.

(b) **Allocation of Excess Nonrecourse Liabilities.** The Partnership shall allocate "nonrecourse liabilities" (within the meaning of Regulations Section 1.752-1(a)(2)) of the Partnership that are secured by multiple Properties under any reasonable method chosen by the General Partner in accordance with Regulations Section 1.752-3(a)(3) and (b). The Partnership shall allocate "excess nonrecourse liabilities" of the Partnership under any method approved under Regulations Section 1.752-3(a)(3) as chosen by the General Partner.

(c) **Special Allocations Regarding LTIP Units.**

(i) Notwithstanding the provisions of Section 6.2 above after giving effect to the allocations in Sections 6.3(a)(i) through (v) and Sections 6.2(a)(i)(A) through (C), Liquidating Gains shall first be allocated to the LTIP Unitholders until the Economic Capital Account Balances of such Holders, to the extent attributable to their ownership of LTIP Units, are equal to (i) the OP Unit Economic Balance, multiplied by (ii) the number of their LTIP Units. Any such allocations shall be made (the "Target Balance") among the Partners in proportion to the aggregate amounts required to be allocated to each Partner pursuant to this Section 6.3(c). For this purpose, "**Liquidating Gains**" means net capital gains realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Partnership, including but not limited to net capital gain realized in connection with an adjustment to the Gross Asset Value of Partnership assets under Code Section 704(b). The "**Economic Capital Account Balances**"

39

of the LTIP Unitholders will be equal to their Capital Account balances to the extent attributable to their ownership of LTIP Units, plus the amount of their allocable share of any Partner Minimum Gain or Partnership Minimum Gain attributable to such LTIP Units. Similarly, the “**OP Unit Economic Balance**” shall mean (i) the Capital Account balance of the General Partner, plus the amount of the General Partner’s share of any Partner Minimum Gain or Partnership Minimum Gain, in either case to the extent attributable to the General Partner’s ownership of OP Units and computed on a hypothetical basis after taking into account all allocations through the date on which any allocation is made under this Section 6.3(c) (including, without limitation, any expenses of the Partnership reimbursed to the General Partner pursuant to Section 7.4(b)), divided by (ii) the number of the General Partner’s OP Units. Any such allocations shall be made among the LTIP Unitholders in proportion to the amounts required to be allocated to each under this Section 6.3(c). The parties agree that the intent of this Section 6.3(c) is to make the Capital Account balance associated with each LTIP Unit to be economically equivalent to the Capital Account balance associated with the General Partner’s OP Units (on a per-OP Unit/LTIP Unit basis). The General Partner shall be permitted to interpret this Section 6.3(c) or to amend this Agreement to the extent necessary and consistent with this intention.]

(ii) Liquidating Gain allocated to an LTIP Unit holder will generally be attributed in the following order: (A) first, to Vested LTIP Units held for more than two years, (B) second, to Vested LTIP Units held for two years or less, (C) third, to Unvested LTIP Units that have remaining vesting conditions that only require continued employment or service to the SFTY, the Partnership or an Affiliate of either for a certain period of time (with such Liquidating Gains being attributed in order of vesting from soonest vesting to latest vesting), and (D) fourth, to other Unvested LTIP Units (with such Liquidating Gains being attributed in order of issuance from earliest issued to latest issued). Within each category, Liquidating Gain will be allocated seriatim (i.e., entirely to the first unit in a set, then entirely to the next unit in the set, and so on, until a full allocation is made to the last unit in the set) in the order of smallest Book-Up Target to largest Book-Up Target. For purposes of the previous sentence, “**Book-Up Target**” for an LTIP unit means (i) initially the OP Unit Economic Balance as determined on the date such LTIP Unit was granted and (ii) thereafter, the remaining balance, if any required to be allocated to such LTIP Unit for the Economic Capital Account Balance of the holder of such LTIP Unit, to the extent attributable to such LTIP Unit, to be equal to the OP Unit Economic Balance.

(iii) After giving effect to the special allocations set forth above, if, due to distributions with respect to OP Units in which the LTIP Unit holders do not participate, forfeitures or otherwise, the Economic Capital Account Balance of any present or former LTIP Unit holder attributable to such LTIP Unit holder’s LTIP Units, exceeds the Target Balance, then Liquidating Losses shall be allocated to such LTIP Unit holder, or Liquidating Gains shall be allocated to the other Partners, to reduce or eliminate the disparity; provided, however, that if Liquidating Losses or Liquidating Gains are insufficient to completely eliminate all such disparities, such losses or gains shall be allocated among Partners in a manner reasonably determined by the General Partner. For this purpose, “**Liquidating Loss**” means any net loss realized in connection with the actual or hypothetical sale of substantially all of the assets of the partnership, including but not limited to net loss realized in connection with an adjustment to the Gross Asset Value of Partnership Assets under Code Section 704(b).

40

(iv) The parties agree that the intent of this Section 6.3(c) is (A) to the extent possible to make the Economic Capital Account Balance associated with each LTIP Unit economically equivalent to the OP Unit Economic Balance and (B) to allow conversion of an LTIP Unit (assuming prior vesting) into an OP Unit when sufficient Liquidating Gains have been allocated to such LTIP Unit pursuant to Section 6.3(c)(i) so that parity described in the definition of Target Balance has been achieved. The General Partner shall be permitted to interpret this Section 6.3(c)(iv) or to amend this Agreement to the extent necessary and consistent with this intention.

(v) In the event that Liquidating Gains or Liquidating Losses are allocated under this Section 6.3(c), Profits allocable under clause 6.2 and any Losses shall be recomputed without regard to the Liquidating Gains or Liquidating Losses so allocated.

(vi) If an LTIP Unit holder forfeits any LTIP Units to which Liquidating Gain has previously been allocated under Section 6.3(c), (A) the portion of such LTIP Unit holder’s Capital Account attributable to such Liquidating Gain allocated to such forfeited LTIP Units will be re-allocated to that LTIP Unit holder’s remaining LTIP Units that were outstanding on the date of the initial allocation of such Liquidating Gain, using a methodology similar to that described in Section 6.3(c)(ii) above as reasonably determined by the General Partner, to the extent necessary to cause such LTIP Unit holder’s Economic Capital Account Balance attributable to each such LTIP Unit to equal the OP Unit Economic Balance and (B) such LTIP Unit holder’s Capital Account will be reduced by the amount of any such Liquidating Gain not re-allocated pursuant to clause (A) above.

(d) **Allocations to Reflect Outside Interests.** Any income or loss to the Partnership associated with an Outside Interest shall be specially allocated so as to take into account amounts received by, and income or loss allocated to, the General Partner or any Affiliate of the General Partner with respect to such Outside Interest so that the overall effect is to allocate income or loss in the same manner as would have occurred had such Outside Interest been held through the Partnership (treating any allocation in respect of the Outside Interest as if such allocation had been made to the General Partner).

(e) **Agreement to Bear Disproportionate Losses.** At the request and with the consent of the applicable Limited Partner, the General Partner may modify the allocation provisions contained herein to provide for disproportionate allocations of Loss (or items of loss or deduction) and chargebacks thereof to a Limited Partner that agrees to restore all or part of any deficit in its Capital Account.

#### Section 6.4. **Tax Allocations.**

(a) **In General.** Except as otherwise provided in this Section 6.4, for income tax purposes under the Code and the Regulations each Partnership item of income, gain, loss and deduction (collectively, “**Tax Items**”) shall be allocated among the Holders of Partnership Units in the same manner as its correlative item of “book” income, gain, loss or deduction is allocated pursuant to Sections 6.2 and 6.3 hereof.

41

(b) **Allocations Respecting Section 704(c) Revaluations.** Notwithstanding Section 6.4(a) hereof, Tax Items with respect to Property that is contributed to the Partnership with a Gross Asset Value that varies from its basis in the hands of the contributing Partner immediately preceding the date of contribution shall be allocated among the Holders of Partnership Units for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. The Partnership shall account for such variation under any method approved under Code

Section 704(c) and the applicable Regulations as chosen by the General Partner, including, without limitation, the “remedial allocation method” as described in Regulations Section 1.704-3(d); **provided, however, that** the “traditional method” shall be used for any assets acquired by the Partnership pursuant to any contribution that results in the treatment of the Partnership as a partnership for U.S. federal income tax purposes.. In the event that the Gross Asset Value of any partnership asset is adjusted pursuant to subsection (b) of the definition of “Gross Asset Value” (provided in Article I hereof), subsequent allocations of Tax Items with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations or under any method approved under Code Section 7.04(c) and the applicable Regulations as chosen by the General Partner.

(c) Notwithstanding the foregoing provisions of this Agreement, the General Partner in its sole discretion shall make such allocations as may be needed to ensure that allocations are in accordance with the interests of the Partners of the Partnership, within the meaning of the Code and Regulations. The General Partner shall determine all matters concerning allocations for tax purposes not expressly provided for herein in its sole discretion. Notwithstanding anything to the contrary contained in this Agreement, for the proper administration of the Partnership, the General Partner may (A) amend the provisions of this Agreement as appropriate to reflect the proposal or promulgation of Regulations under Section 704(b) or Section 704(c) of the Code, and (B) adopt and employ or modify such conventions and methods of the General Partner determines in his sole discretion to be appropriate for (i) the determination of Tax Items and the allocation of such Tax Items among Partners and between transferors and transferees under this Agreement pursuant to the Code and Regulations promulgated thereunder, (ii) the determination of the identities and tax classifications of Partners, (iii) the valuation of the Partnership’s assets and the determination of tax basis, (iv) the allocation of asset values and tax basis, (v) the adoption and maintenance of accounting methods, and (vi) taking into account differences between the Gross Asset Values of the assets of the Partnership and adjusted tax basis pursuant to Section 704(c) of the Code and the Regulations promulgated thereunder.

(d) Allocations that would otherwise be made to a Partner under the provisions of this Article VI shall instead be made to the beneficial owner of OP Units held by a nominee in any case in which the nominee has furnished the identity of such owner to the Partnership in accordance with Section 6031(c) of the Code, or pursuant to any other method determined by the General Partner in its sole discretion.

42

---

## ARTICLE VII

### MANAGEMENT AND OPERATIONS OF BUSINESS

#### Section 7.1. **Management.**

(a) Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership are and shall be exclusively vested in the General Partner, and no Limited Partner shall have any right to participate in or exercise control or management power over the business and affairs of the Partnership. The General Partner may not be removed by the Partners with or without cause, except with the consent of the General Partner. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any other provision of this Agreement, the General Partner, subject to the other provisions hereof including, without limitation, Section 7.3, shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, to exercise all powers set forth in Section 3.2 hereof and to effectuate the purposes set forth in Section 3.1 hereof, including, without limitation, taking the actions and decisions set forth below. Each of the Limited Partners acknowledges and agrees that on the date hereof, SFTY, the Partnership and the Manager have entered into the Management Agreement pursuant to which SFTY and the Partnership have retained the Manager to manage the day to day operations of SFTY and its Subsidiaries, including the Partnership. Each of the Limited Partners further acknowledges and agrees that the General Partner is authorized to delegate to the Manager the power and authority to conduct the day to day operations of the Partnership subject to and in accordance with the terms and the Management Agreement, including without limitation, the power and authority of the General Partner to take such of the following actions and decisions as the General Partner determines in its sole discretion, to be reasonably necessary or desirable in order to permit the Manager to perform the services under the Management Agreement:

(i) the making of any expenditures, the lending or borrowing of money (including, without limitation, making prepayments on loans and borrowing money or selling assets to permit the Partnership to make distributions in such amounts as will permit SFTY (so long as SFTY desires to maintain or restore its qualification as a REIT) to avoid the payment of any income or excise tax under the Code and to make distributions to its stockholders sufficient to permit SFTY to maintain or restore REIT qualification or otherwise to satisfy the REIT Requirements), the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness (including the securing of same by deed to secure debt, mortgage, deed of trust or other lien or encumbrance on the Partnership’s assets) and the incurring of any obligations that it deems necessary for the conduct of the activities of the Partnership;

(ii) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Partnership, the registration of any class of securities of the Partnership under the Exchange Act and the listing of any debt securities of the Partnership on any exchange;

43

(iii) subject to Section 11.2 hereof, the acquisition, sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Partnership (including, but not limited to, the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Partnership) or the merger, consolidation, reorganization or other combination of the Partnership with or into another entity;

(iv) the mortgage, pledge, encumbrance or hypothecation of any assets of the Partnership, the assignment of any assets of the Partnership in trust for creditors or on the promise of the assignee to pay the debts of the Partnership, the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms that it sees fit, including, without limitation, the financing of the operations and activities of the General Partner, the Partnership or any of the Partnership’s Subsidiaries, the lending of funds to other Persons (including, without limitation, the Partnership’s Subsidiaries) and the repayment of obligations of the Partnership, its Subsidiaries and any other Person in which the Partnership has an equity investment, and the making of capital contributions to and equity investments in the Partnership’s Subsidiaries;

(v) the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms it sees fit, including, without limitation, the financing of the conduct of the operations of the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the General Partner and its Subsidiaries and the Partnership's Subsidiaries) and the repayment of obligations of the Partnership and its Subsidiaries and any other Person in which the Partnership has an equity investment and the making of capital contributions to its Subsidiaries;

(vi) the management, operation, leasing, landscaping, repair, alteration, demolition, replacement or improvement of any Property, including, without limitation, any Contributed Property, or other asset of the Partnership or any Subsidiary, whether pursuant to a Services Agreement or otherwise;

(vii) the negotiation, execution and performance of any contracts, leases, conveyances or other instruments that the General Partner considers useful or necessary to the conduct of the Partnership's operations or the implementation of the General Partner's powers under this Agreement, including contracting with contractors, developers, consultants, government authorities, accountants, legal counsel, other professional advisors and other agents and the payment of their expenses and compensation out of the Partnership's assets;

(viii) the distribution of Partnership cash or other Partnership assets in accordance with this Agreement, the holding, management, investment and reinvestment of cash and other assets of the Partnership and the collection and receipt of revenues, rents and income of the Partnership;

(ix) the maintenance of such insurance (including, without limitation, directors and officers insurance) for the benefit of the Partnership and the Partners (including, without limitation, the General Partner) as the General Partner deems necessary or appropriate,

44

---

including, without limitation, (i) casualty, liability and other insurance on the Properties and (ii) liability insurance for the Indemnitees hereunder;

(x) the formation of, or acquisition of an interest in, and the contribution of property to, any further limited or general partnerships, limited liability companies, joint ventures or other relationships that the General Partner deems desirable (including, without limitation, the acquisition of interests in, and the contributions of property to, any Subsidiary and any other Person in which it has an equity investment from time to time); **provided, however, that** as long as SFTY desires to maintain or restore its qualification as a REIT, SFTY, the General Partner and the Partnership may not engage in any such formation, acquisition or contribution that would cause it to fail to qualify as a REIT;

(xi) the filing of applications, communicating and otherwise dealing with any and all governmental agencies having jurisdiction over, or in any way affecting, the Partnership's assets or any other aspect of the Partnership business;

(xii) the taking of any action necessary or appropriate to comply with all regulatory requirements applicable to the Partnership in respect of its business, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports, filings and documents, if any, required under the Exchange Act, the Securities Act, or by National Securities Exchange requirements;

(xiii) the control of any matters affecting the rights and obligations of the Partnership, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment, of any claim, cause of action, liability, debt or damages, due or owing to or from the Partnership, the commencement or defense of suits, legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, and the representation of the Partnership in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(xiv) the undertaking of any action in connection with the Partnership's direct or indirect investment in any Subsidiary or any other Person (including, without limitation, the contribution or loan of funds by the Partnership to such Persons);

(xv) except as otherwise specifically set forth in this Agreement, the determination of the fair market value of any Partnership property distributed in-kind using such reasonable method of valuation as it may adopt; **provided, that** such methods are otherwise consistent with the requirements of this Agreement;

(xvi) the enforcement of any rights against any Partner pursuant to representations, warranties, covenants and indemnities relating to such Partner's contribution of property or assets to the Partnership;

(xvii) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power-of-attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Partnership;

45

---

(xviii) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Partnership or any other Person in which the Partnership has a direct or indirect interest, or jointly with any such Subsidiary or other Person;

(xix) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of any Person in which the Partnership does not have an interest, pursuant to contractual or other arrangements with such Person;

(xx) the making, execution and delivery of any and all deeds, leases, notes, deeds to secure Debt, mortgages, deeds of trust, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases or legal instruments or agreements in writing necessary or appropriate in the judgment of the General Partner for the accomplishment of any of the powers of the General Partner enumerated in this Agreement;

(xxi) the issuance of additional Partnership Units, as appropriate and in the General Partner's sole and absolute discretion, in connection with Capital Contributions by Additional Limited Partners and additional Capital Contributions by Partners pursuant to Article IV hereof;

(xxii) the selection and dismissal of agents, outside attorneys, accountants, consultants and contractors of the Partnership or the General Partner, the determination of their compensation and other terms of hiring;

(xxiii) the distribution of cash to acquire Partnership Units held by a Limited Partner in connection with a Limited Partner's exercise of its Redemption right under Section 8.6 hereof;

(xxiv) the amendment and restatement of Exhibit A hereto to reflect accurately at all times the Capital Contributions and Percentage Interests of the Partners as the same are adjusted from time to time to the extent necessary to reflect redemptions, Capital Contributions, the number of Partnership Units (including any issuance thereof), the admission of any Additional Limited Partner or any Substituted Limited Partner or otherwise, which amendment and restatement, notwithstanding anything in this Agreement to the contrary, shall not be deemed an amendment to this Agreement, as long as the matter or event being reflected in Exhibit A hereto otherwise is authorized by this Agreement;

(xxv) the determination regarding whether a payment to a Partner who exercises its Redemption Right under Section 8.6 that is assumed by the General Partner will be paid in the form of the Cash Amount or the REIT Shares Amount, except as such determination may be limited by Section 8.6.

(xxvi) the collection and receipt of revenues and income of the Partnership;

(xxvii) the registration of any class of securities of the Partnership under the Securities Act or the Exchange Act;

46

---

(xxviii) the entering into of listing agreements with any National Securities Exchange and the listing of any securities of the Partnership on any such exchange;

(xxix) an election to dissolve the Partnership pursuant to Section 13.1(d) hereof; and

(xxx) the taking of any action necessary or appropriate to enable SFTY to qualify as a REIT (so long as SFTY desires to maintain or restore its qualification as a REIT).

(b) Each of the Limited Partners agrees that, except as provided in Section 7.3 hereof, the General Partner is authorized to execute, deliver and perform the above-mentioned agreements and transactions on behalf of the Partnership, and to delegate such authority to the Manager to the extent the General Partner, in its sole discretion, deems necessary or desirable in order to permit the Manager to perform the services under the Management Agreement, without any further act, approval or vote of the Partners, notwithstanding any other provision of this Agreement, the Act or any applicable law, rule or regulation and, in the absence of any specific corporate action on the part of the General Partner to the contrary, the taking of any action or the execution of any such document or writing by an officer of the General Partner or the Manager, in the name and on behalf of the General Partner, in its capacity as the general partner of the Partnership, shall conclusively evidence (1) the approval thereof by the General Partner, in its capacity as the general partner of the Partnership, (2) the General Partner's determination that such action, document or writing is necessary or desirable to conduct the business and affairs of the Partnership, exercise the powers of the Partnership under this Agreement and the Act or effectuate the purposes of the Partnership, or any other determination by the General Partner required by this Agreement in connection with the taking of such action or execution of such document or writing, and (3) the authority of such officer with respect thereto.

(c) At all times from and after the date hereof, the General Partner may cause (and may authorize the Manager pursuant to the Management Agreement to cause) the Partnership to obtain and maintain (i) casualty, liability and other insurance on the Properties and (ii) liability insurance for the Indemnitees hereunder.

(d) At all times from and after the date hereof, the General Partner may cause (and may authorize the Manager pursuant to the Management Agreement to cause) the Partnership to establish and maintain working capital and other reserves in such amounts as the General Partner (or the Manager), in its sole and absolute discretion, deems appropriate and reasonable from time to time.

(e) In exercising its authority under this Agreement, the General Partner may, (and may authorize the Manager to, but shall be under no obligation to, take into account the tax consequences to any Partner (including the General Partner) of any action taken (or not taken) by it. Except as may be provided in a separate written agreement between the Partnership and the Limited Partners, the General Partner, the Partnership, SFTY and the Manager shall not have liability to a Limited Partner under any circumstances as a result of a tax liability incurred by such Limited Partner as a result of an action (or inaction) by the General Partner pursuant to its authority under this Agreement or by the Manager pursuant to the Management Agreement

47

---

**provided, that** the General Partner or the Manager, as applicable has acted in good faith and pursuant to its authority under this Agreement or the Management Agreement, as applicable.

**Section 7.2. Certificate of Limited Partnership.** To the extent that such action is determined by the General Partner to be reasonable and necessary or appropriate, the General Partner shall file amendments to and restatements of the Certificate of Limited Partnership and do all the things to maintain the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) under the laws of the State of Delaware and each other state, the District of Columbia or any other jurisdiction, in which the Partnership may elect to do business or own property. Except as otherwise required under the Act, the General Partner shall not be required, before or after filing, to deliver or mail a copy of the Certificate of Limited Partnership or any amendment thereto to any Limited Partner. The General Partner shall use all reasonable efforts to cause to be filed such other certificates or documents as may be reasonable and necessary or appropriate for the formation, continuation, qualification and operation of a limited partnership (or a

partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and any other state, or the District of Columbia or other jurisdiction, in which the Partnership may elect to do business or own property.

**Section 7.3. Restrictions on General Partner's Authority.**

(a) The General Partner may not, and may not authorize the Manager pursuant to the Management Agreement to, take any action in contravention of an express prohibition or limitation of this Agreement without the written consent of a Majority in Interest of the Outside Limited Partners or such other percentage of the Limited Partners as may be specifically provided for under a provision of this Agreement and may not, and may not authorize the Manager pursuant to the Management Agreement to, (1) perform any act that would subject a Limited Partner to liability as a general partner in any jurisdiction or any other liability except as provided herein or under the Act; or (2) enter into any contract, mortgage, loan or other agreement that expressly prohibits or restricts (a) the General Partner or the Partnership from performing its specific obligations under Section 8.6 hereof in full or (b) a Limited Partner from exercising its rights under Section 8.6 hereof to effect a Redemption in full, except, in either case, with the written consent of such Limited Partner affected by the prohibition or restriction.

(b) The General Partner shall not, and shall not authorize the Manager pursuant to the Management Agreement to, without the written consent of a Majority in Interest of the Outside Limited Partners amend this Agreement in a manner that disproportionately effects such Limited Partners, if such amendment would amend Section 4.3, Article V, Article VI, Article VII, Section 8.6, Section 11.2 or this Section 7.3(b).

(c) Notwithstanding Sections 7.3(b) and 14.2, the General Partner shall have the exclusive power, without the prior consent of the Limited Partners, to amend this Agreement as may be required to facilitate or implement any of the following purposes:

(i) to add to the obligations of the General Partner or surrender any right or power granted to the General Partner or any Affiliate of the General Partner for the benefit of the Limited Partners;

48

---

(ii) to reflect the admission, substitution or withdrawal of Partners or the termination of the Partnership in accordance with this Agreement, and to amend Exhibit A attached hereto in connection with such admission, substitution or withdrawal;

(iii) to reflect a change that is of an inconsequential nature or does not adversely affect the Limited Partners as such in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement;

(iv) to satisfy any requirements, conditions or guidelines contained in any order, directive, opinion, ruling or regulation of a federal or state agency or contained in federal or state law;

(v) to set forth or amend the designations, preferences, conversion or other rights, voting powers, restrictions, limitations as to distributions, qualifications or terms or conditions of redemption of the holders of any additional Partnership Units or Partnership Interests issued or established pursuant to this Agreement;

(vi) (a) to reflect such changes as are reasonably necessary for SFTY to maintain or restore its qualification as a REIT or to satisfy the REIT Requirements; or (b) to reflect the Transfer of all or any part of a Partnership Interest among the General Partner, and any Qualified REIT Subsidiary or entity that is disregarded as an entity separate from SFTY for U.S. federal income tax purposes;

(vii) to modify either or both the manner in which items of Net Income or Net Loss are allocated pursuant to Article VI or the manner in which Capital Accounts are adjusted, computed or maintained (but only to the extent set forth in the definition of "Capital Account" or contemplated by the Code or the Regulations);

(viii) to issue additional Partnership Interests in accordance with Section 4.3;

(ix) to reflect any other modification to this Agreement as is reasonably necessary for the business or operations of the Partnership or the General Partner and which does not violate Section 7.3(d);

(x) as may be required to reflect the admission, substitution, termination or withdrawal of Partners in accordance with this Agreement (which may be affected through the replacement of Exhibit C with an amended Exhibit C); and

(xi) for the purposes contemplated by Section 11.3(e).

The General Partner will provide notice to the Limited Partners whenever any action under this Section 7.3(c) is taken.

(d) Notwithstanding Sections 7.3(b) and 7.3(c) hereof, this Agreement shall not be amended, and no action may be taken by the General Partner (and the General Partner

49

---

shall not authorize the Manager pursuant to the Management Agreement to take any action), without the consent of each Partner adversely affected thereby, if such amendment or action would (i) convert a Limited Partner Interest in the Partnership into a General Partner Interest (except as a result of the General Partner acquiring such Partnership Interest), (ii) modify the limited liability of a Limited Partner (iii) alter the rights of any Partner to receive the distributions to which such Partner is entitled, pursuant to Article V or Section 13.2(a)(iv) hereof, or alter the allocations specified in Article VI hereof (except, in any case, as permitted pursuant to Sections 4.3, 7.3(c) and Article VI hereof), (iv) alter or modify the Redemption rights, Cash Amount or REIT Shares Amount as set forth in Section 8.6 hereof, or amend or modify any related definitions, (v) alter or modify Section 11.2 hereof or (vi) amend this Section 7.3(d). Further, no

amendment may alter the restrictions on the General Partner's authority set forth elsewhere in this Section 7.3 without the consent specified therein. Any such amendment or action consented to by any Partner shall be effective as to that Partner, notwithstanding the absence of such consent by any other Partner.

#### Section 7.4. **Reimbursement of the General Partner.**

(a) Except as provided in this Section 7.4 and elsewhere in this Agreement (including the provisions of Articles V and VI regarding distributions, payments and allocations to which it may be entitled), the General Partner shall not be compensated for its services as general partner of the Partnership. The Limited Partners acknowledge and agree that the Manager shall be compensated for its services pursuant to the Management Agreement.

(b) The Partnership shall be responsible for and shall pay all expenses relating to the Partnership's the General Partner's and SFTY's organization, the ownership of their assets and their operations. The General Partner is hereby authorized to pay compensation under the Management Agreement and for accounting, administrative, legal, technical, management and other services rendered to the Partnership. Except to the extent provided in this Agreement and the Management Agreement, the General Partner and its Affiliates shall be reimbursed on a monthly basis, or such other basis as the General Partner may determine in its sole and absolute discretion, for all expenses that the General Partner and its Affiliates incur relating to the ownership and operation of, or for the benefit of, the Partnership (including, without limitation, administrative expenses); **provided, that** the amount of any such reimbursement shall be reduced by any interest earned by the General Partner with respect to bank accounts or other instruments or accounts held by it on behalf of the Partnership. The Partners acknowledge that all such expenses of the General Partner are deemed to be for the benefit of the Partnership. Such reimbursement shall be in addition to any reimbursement made as a result of the Management Agreement or as a result of indemnification pursuant to Section 7.7 hereof. In the event that certain expenses are incurred for the benefit of the Partnership and other entities (including the General Partner), such expenses will be allocated to the Partnership and such other entities in such a manner as the General Partner in its sole and absolute discretion deems fair and reasonable. All payments and reimbursements hereunder shall be characterized for federal income tax purposes as expenses of the Partnership incurred on its behalf, and not as expenses of the General Partner.

(c) If SFTY shall elect to purchase from its stockholders REIT Shares for the purpose of delivering such REIT Shares to satisfy an obligation under any dividend reinvestment

50

---

program adopted by SFTY, any employee stock purchase plan adopted by SFTY or any similar obligation or arrangement undertaken by SFTY in the future or for the purpose of retiring such REIT Shares, the purchase price paid by SFTY for such REIT Shares and any other expenses incurred by SFTY in connection with such purchase shall be considered expenses of the Partnership and shall be advanced to SFTY or reimbursed to SFTY, subject to the condition that: (1) if such REIT Shares subsequently are sold by SFTY, SFTY shall pay or cause to be paid to the Partnership any proceeds received by SFTY for such REIT Shares (which sales proceeds shall include the amount of dividends reinvested under any dividend reinvestment or similar program; **provided, that** a transfer of REIT Shares for Partnership Units pursuant to Section 8.6 would not be considered a sale for such purposes); and (2) if such REIT Shares are not retransferred by SFTY within 30 days after the purchase thereof, or SFTY otherwise determines not to retransfer such REIT Shares, SFTY shall cause the Partnership to redeem a number of Partnership Units held by SFTY equal to the number of such REIT Shares, as adjusted for stock dividends and distributions, stock splits and subdivisions, reverse stock splits and combinations, distributions of rights, warrants or options, and distributions of evidences of indebtedness or assets relating to assets not received by SFTY pursuant to a *pro rata* distribution by the Partnership (in which case such advancement or reimbursement of expenses shall be treated as having been made as a distribution in redemption of such number of Partnership Units held by SFTY).

(d) As set forth in Section 4.3, SFTY shall be treated as having made a Capital Contribution in the amount of all expenses that it incurs relating to its offering of REIT Shares, Preferred Shares, Junior Shares or New Securities.

(e) If and to the extent any reimbursements to the General Partner or SFTY pursuant to this Section 7.4 constitute gross income of the General Partner or SFTY (as opposed to the repayment of advances made by the General Partner or SFTY on behalf of the Partnership), such amounts shall constitute guaranteed payments with respect to capital within the meaning of Code Section 7.7(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

Section 7.5. **Outside Activities of SFTY and the General Partner.** Neither SFTY nor the General Partner shall directly or indirectly enter into or conduct any business, other than in connection with (a) the ownership, acquisition and disposition of Partnership Interests, (b) the management of the business of the Partnership (including the retention of the Manager), (c) the operation of SFTY as a reporting company with one or more classes of securities registered under the Exchange Act, (d) the offering, sale, syndication, private placement or public offering of stock, bonds, securities or other interests, (e) financing or refinancing of any type related to the Partnership or its assets or activities, (f) any of the foregoing activities as they relate to a Subsidiary of the Partnership, and (g) such activities as are incidental thereto. Nothing contained herein shall be deemed to prohibit SFTY or the General Partner from (i) executing guarantees of Partnership Debt, (ii) holding such bank accounts or similar instruments or accounts in its name as it deems necessary to carry out its responsibilities and purposes as contemplated under this Agreement and its organizational documents (**provided, that** accounts held on behalf of the Partnership to permit the General Partner to carry out its responsibilities under this Agreement shall be considered to belong to the Partnership and the interest earned thereon shall, subject to Section 7.4(b), be applied for the benefit of the Partnership) or (iii) acquiring Qualified Assets.

51

---

#### Section 7.6. **Contracts with Affiliates.**

(a) The Partnership may lend or contribute funds or other assets to its Subsidiaries or other Persons in which it has an equity investment, and such Persons may borrow funds from the Partnership, on terms and conditions established in the sole and absolute discretion of the General Partner. The foregoing authority shall not create any right or benefit in favor of any Subsidiary or any other Person.

(b) The Partnership may transfer assets to joint ventures, limited liability companies, partnerships, corporations, business trusts or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law as the General Partner, in its sole and absolute discretion, believes to be advisable.

(c) Except as expressly permitted by this Agreement, neither the General Partner nor any of its Affiliates shall sell, transfer or convey any property to the Partnership, directly or indirectly, except pursuant to transactions that are determined by the General Partner in good faith to be fair and reasonable.

(d) The General Partner, in its sole and absolute discretion and without the approval of the Limited Partners, may propose and adopt on behalf of the Partnership employee benefit plans funded by the Partnership for the benefit of employees of the General Partner, the Partnership, Subsidiaries of the Partnership or any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of the Partnership or any of the Partnership's Subsidiaries.

(e) The General Partner is expressly authorized to enter into, in the name and on behalf of the Partnership, any Services Agreement with Affiliates of any of the Partnership or the General Partner, on such terms as the General Partner, in its sole and absolute discretion, believes are advisable.

#### Section 7.7. **Indemnification.**

(a) The Partnership shall, to the maximum extent permitted by applicable law in effect from time to time, indemnify, and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to each Indemnitee; **provided, however, that** the Partnership shall not indemnify an Indemnitee (1) for material acts or omissions that were committed in bad faith or were the result of active and deliberate dishonesty, (2) for any transaction for which such Indemnitee received an improper personal benefit in money, property or services in violation or breach of any provision of this Agreement, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful. Without limitation, the foregoing indemnity shall extend to any liability of any Indemnitee, pursuant to a loan guaranty or otherwise (unless otherwise provided by the terms of any such guaranty or other instrument), for any indebtedness of the Partnership or any Subsidiary of the Partnership (including, without limitation, any indebtedness which the Partnership or any Subsidiary of the Partnership has assumed or taken subject to), and the General Partner is hereby authorized and

52

---

empowered, on behalf of the Partnership, to enter into one or more indemnity agreements consistent with the provisions of this Section 7.7 in favor of any Indemnitee having or potentially having liability for any such indebtedness. The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in this Section 7.7(a). The termination of any proceeding by conviction of an Indemnitee or upon a plea of *nolo contendere* or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to judgment, does not create a presumption that such Indemnitee acted in a manner contrary to that specified in this Section 7.7(a) with respect to the subject matter of such proceeding. Any indemnification pursuant to this Section 7.7 shall be made only out of the assets of the Partnership and any insurance proceeds from the liability policy covering the General Partner and any Indemnitees, and neither the General Partner nor any Limited Partner shall have any obligation to contribute to the capital of the Partnership or otherwise provide funds to enable the Partnership to fund its obligations under this Section 7.7.

(b) To the fullest extent permitted by law, and without requiring a preliminary determination of the Indemnitee's ultimate entitlement to indemnification under Section 7.7(a) above, expenses incurred by an Indemnitee who is a party to a proceeding or otherwise subject to or the focus of or is involved in any proceeding shall be paid or reimbursed by the Partnership as incurred by the Indemnitee in advance of the final disposition of the proceeding upon receipt by the Partnership of (1) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Partnership as authorized in this Section 7.7(b) has been met and (2) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

(c) The indemnification provided by this Section 7.7 shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee unless otherwise provided in a written agreement with such Indemnitee or in the writing pursuant to which such Indemnitee is indemnified.

(d) The Partnership may, but shall not be obligated to, purchase and maintain insurance, on behalf of any of the Indemnitees and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the Partnership's activities, regardless of whether the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

(e) Any liabilities which an Indemnitee incurs as a result of acting on behalf of the Partnership, the General Partner or SFTY (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the IRS, penalties assessed by the Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other

53

---

funding mechanism, or otherwise) shall be treated as liabilities or judgments or fines under this Section 7.7, unless such liabilities arise as a result of (1) material acts or omissions that were committed in bad faith or were the result of active and deliberate dishonesty, (2) any transaction in which such Indemnitee received an improper personal benefit in money, property or services in violation or breach of any provision of this Agreement or applicable law, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful.

(f) In no event may an Indemnitee subject any of the Partners to personal liability by reason of the indemnification provisions set forth in this Agreement.

(g) An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.7 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.



(h) The provisions of this Section 7.7 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this Section 7.7 or any provision hereof shall be prospective only and shall not in any way affect the obligations of the Partnership or the limitations on the Partnership's liability to any Indemnitee under this Section 7.7 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

(i) If and to the extent any payments to the General Partner or SFTY pursuant to this Section 7.7 constitute gross income SFTY (as opposed to the repayment of advances made on behalf of the Partnership) such amounts shall be treated as "guaranteed payments" for the use of capital within the meaning of Code Section 7.7(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

#### Section 7.8. **Liability of the General Partner and Affiliates.**

(a) Notwithstanding anything to the contrary set forth in this Agreement, to the maximum extent that Delaware law in effect from time to time permits, none of the General Partner, its Affiliates and their respective directors or officers shall be liable or accountable in damages or otherwise to the Partnership, any Partners or any Assignees for losses sustained, liabilities incurred or benefits not derived as a result of errors in judgment or mistakes of fact or law or of any act or omission if the General Partner or such Affiliate or such director or officer acted in good faith.

(b) The Limited Partners expressly acknowledge that the General Partner is acting for the benefit of the Partnership, the Limited Partners and SFTY and its stockholders collectively and that the General Partner is under no obligation to give priority to the separate interests of the Limited Partners or the stockholders of SFTY (including, without limitation, the tax consequences to Limited Partners, Assignees or the stockholders of SFTY) in deciding

54

---

whether to cause the Partnership to take (or decline to take) any actions. If there is a conflict between the interests of the stockholders of SFTY on one hand and the Limited Partners on the other, the Limited Partners expressly acknowledge that the General Partner will fulfill its fiduciary duties to such Limited Partners by acting in the best interests of the stockholders of SFTY. The General Partner shall not be liable under this Agreement to the Partnership or to any Partner for monetary damages for losses sustained, liabilities incurred, or benefits not derived by Limited Partners in connection with such decisions; **provided, that** the General Partner has acted in good faith.

(c) Subject to its obligations and duties as General Partner set forth in Section 7.1 hereof, the General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its employees or agents (subject to the supervision and control of the General Partner), including the Manager pursuant to the Management Agreement. The General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by it in good faith.

(d) To the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or the Limited Partners, the General Partner shall not be liable to the Partnership or to any other Partner for its good faith reliance on the provisions of this Agreement.

(e) Notwithstanding anything herein to the contrary, except for fraud, willful misconduct or gross negligence, or pursuant to any express indemnities given to the Partnership by any Partner pursuant to any other written instrument, no Partner shall have any personal liability whatsoever, to the Partnership or to the other Partner(s), for the debts or liabilities of the Partnership or the Partnership's obligations hereunder, and the full recourse of the other Partner(s) shall be limited to the interest of that Partner in the Partnership. To the fullest extent permitted by law, no officer, director or stockholder of the General Partner or any of its Affiliates shall be liable to the Partnership for money damages except for (1) active and deliberate dishonesty established by a nonappealable final judgment or (2) actual receipt of an improper benefit or profit in money, property or services. Without limitation of the foregoing, and except for fraud, willful misconduct or gross negligence, or pursuant to any such express indemnity, no property or assets of any Partner, other than its interest in the Partnership, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Partner(s) and arising out of, or in connection with, this Agreement.

(f) Any amendment, modification or repeal of this Section 7.8 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the General Partner's, and its Affiliates' or their officers' and directors', liability to the Partnership and the Limited Partners under this Section 7.8 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

55

---

#### Section 7.9. **Other Matters Concerning the General Partner.**

(a) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

(b) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers, environmental consultants and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the General Partner reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

(c) The General Partner shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers and a duly appointed attorney or attorneys-in-fact. Each such attorney shall, to the extent provided by the General Partner in the power of attorney, have full power and authority to do and perform all and every act and duty that is permitted or required to be done by the General Partner hereunder.

(d) Notwithstanding any other provision of this Agreement or the Act, any action of the General Partner on behalf of the Partnership or any decision of the General Partner to refrain from acting on behalf of the Partnership, undertaken in the good faith belief that such action or omission is necessary or advisable in order (1) to protect the ability of SFTY to continue to qualify as a REIT or the Partnership to be taxed as a partnership for U.S. federal income tax purposes, or (2) without limitation of the foregoing clauses (1) or (2), to avoid the General Partner, SFTY or the Partnership incurring any income or excise taxes under the Code, is expressly authorized under this Agreement and is deemed approved by all of the Limited Partners.

Section 7.10. **Title to Partnership Assets.** Title to Partnership assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually or collectively with other Partners or Persons, shall have any ownership interest in such Partnership assets or any portion thereof. Title to any or all of the Partnership assets may be held in the name of the Partnership, the General Partner or one or more nominees, as the General Partner may determine, including Affiliates of the General Partner. The General Partner hereby declares and warrants that any Partnership assets for which legal title is held in the name of the General Partner or any nominee or Affiliate of the General Partner shall be held by the General Partner for the use and benefit of the Partnership in accordance with the provisions of this Agreement. All Partnership assets shall be recorded as the property of the Partnership in its books and records, irrespective of the name in which legal title to such Partnership assets is held.

Section 7.11. **Reliance by Third Parties.** Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner and the Manager each has full power and authority, without the consent or approval of any other Partner or Person, to encumber, sell or otherwise use in any manner any and all assets of the Partnership and to enter into any contracts on behalf of the Partnership, and

56

---

take any and all actions on behalf of the Partnership, and such Person shall be entitled to deal with the General Partner and the Manager as if each were the Partnership's sole party in interest, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the General Partner or the Manager in connection with any such dealing. In no event shall any Person dealing with the General Partner or the Manager or their respective representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expediency of any act or action of the General Partner or the Manager or their respective representatives. Each and every certificate, document or other instrument executed on behalf of the Partnership by the General Partner or the Manager or their respective representatives shall be conclusive evidence in favor of any and every Person relying in good faith thereon or claiming thereunder that (1) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (2) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Partnership, and (3) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Partnership.

## ARTICLE VIII

### RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

Section 8.1. **Limitation of Liability.** The Limited Partners shall have no liability under this Agreement (other than for breach thereof) except as expressly provided in Sections 10.4 and Section 13.2(c) or under the Act.

Section 8.2. **Management of Business.** No Limited Partner or Assignee (other than the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent or director of the General Partner, the Partnership or any of their Affiliates, in their capacity as such) shall take part in the operations, management or control (within the meaning of the Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent, representative, stockholder or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Limited Partners or Assignees under this Agreement.

Section 8.3. **Outside Activities of Limited Partners.** Subject to any agreements entered into pursuant to Section 7.6(e) hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, including the Exclusivity Agreement, the Partnership or any Affiliate thereof (including, without limitation, any employment agreement), any Limited Partner and any Assignee, officer, director, employee, agent, trustee, Affiliate, member or shareholder of any Limited Partner shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including business interests and activities that are in direct or indirect competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of any

57

---

Limited Partner or Assignee. Subject to such agreements, none of the Limited Partners nor any other Person shall have any rights by virtue of this Agreement or the partnership relationship established hereby in any business ventures of any other Person (other than the General Partner, to the extent expressly provided herein), and such Person shall have no obligation pursuant to this Agreement, subject to Section 7.6(e) hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or any Affiliate thereof, to offer any interest in any such business ventures to the Partnership, any Limited Partner or any such other Person, even if such opportunity is of a character that, if presented to the Partnership, any Limited Partner or such other Person, could be taken by such Person.

Section 8.4. **Return of Capital.** Except pursuant to the rights of Redemption set forth in Section 8.6 hereof, no Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement, upon termination of the Partnership as provided herein. Except to the extent provided in Article VI hereof or otherwise expressly provided in this Agreement, no Limited Partner or Assignee shall have priority over any other Limited Partner or Assignee either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.5. **Adjustment Factor.** The Partnership shall notify any Limited Partner, on request, of the then current Adjustment Factor or any change made to the Adjustment Factor.

Section 8.6. **Redemption Rights.**

(a) On or after the date twelve (12) months after the date of the initial issuance of the OP Units, each Limited Partner shall have the right (subject to the terms and conditions set forth herein and in any other such agreement, as applicable) to require the Partnership to redeem all or a portion of the OP Units held by such Limited Partner (such OP Units being hereafter referred to as “**Tendered Units**”) in exchange for the Cash Amount (a “**Redemption**”) unless the terms of such OP Units or a separate agreement entered into between the Partnership and the holder of such OP Units provide that such OP Units are not entitled to a right of Redemption or provide for a shorter or longer period before such Holder may exercise such right of Redemption or impose conditions on the exercise of such right of Redemption. The Tendering Partner shall have no right, with respect to any OP Units so redeemed, to receive any distributions paid on or after the Specified Redemption Date. Any Redemption shall be exercised pursuant to a Notice of Redemption delivered to the General Partner and SFTY by the Limited Partner who is exercising the right (the “**Tendering Partner**”). The Cash Amount shall be payable to the Tendering Partner on the Specified Redemption Date.

(b) Notwithstanding Section 8.6(a) above, if a Limited Partner has delivered to the General Partner a Notice of Redemption then SFTY may, in its sole and absolute discretion, (subject to the limitations on ownership and transfer of REIT Shares set forth in the Charter) elect to assume and satisfy the Partnership’s Redemption obligation and acquire some or all of the Tendered Units from the Tendering Partner in exchange for the REIT Shares Amount (as of the Specified Redemption Date) and, if SFTY so elects, the Tendering Partner shall sell the Tendered Units to SFTY in exchange for the REIT Shares Amount. In such event, the Tendering Partner shall have no right to cause the Partnership to redeem such Tendered Units. SFTY shall

58

give such Tendering Partner written notice of its election on or before the close of business on the fifth Business Day after the its receipt of the Notice of Redemption.

(c) The REIT Shares Amount, if applicable, shall be delivered as duly authorized, validly issued, fully paid and nonassessable REIT Shares and, if applicable, free of any pledge, lien, encumbrance or restriction, other than those provided in the Charter or the Bylaws of SFTY, the Securities Act, relevant state securities or blue sky laws and any applicable registration rights agreement with respect to such REIT Shares entered into by the Tendering Partner. Notwithstanding any delay in such delivery (but subject to Section 8.6(e)), the Tendering Partner shall be deemed the owner of such REIT Shares for all purposes, including without limitation, rights to vote or consent, and receive dividends, as of the Specified Redemption Date. In addition, the REIT Shares for which the Partnership Units might be exchanged shall also bear the legend set forth in the Charter.

(d) Each Limited Partner covenants and agrees with the General Partner and SFTY that all Tendered Units shall be delivered to the General Partner or SFTY, as applicable, free and clear of all liens, claims and encumbrances whatsoever and should any such liens, claims and/or encumbrances exist or arise with respect to such Tendered Units, the General Partner or SFTY, as applicable, shall be under no obligation to acquire the same. Each Limited Partner further agrees that, in the event any state or local property transfer tax is payable as a result of the transfer of its Tendered Units to the General Partner or SFTY, as applicable, (or their designee), such Limited Partner shall assume and pay such transfer tax.

(e) Notwithstanding the provisions of Sections 8.6(a), 8.6(b), 8.6(c) or any other provision of this Agreement, a Limited Partner (i) shall not be entitled to effect a Redemption for cash or an exchange for REIT Shares to the extent the ownership or right to acquire REIT Shares pursuant to such exchange by such Partner on the Specified Redemption Date could cause such Partner or any other Person to violate the restrictions on ownership and transfer of REIT Shares set forth in the Charter of SFTY and (ii) shall have no rights under this Agreement to acquire REIT Shares which would otherwise be prohibited under the Charter. To the extent any attempted Redemption or exchange for REIT Shares would be in violation of this Section 8.6(e), it shall be null and void *ab initio* and such Limited Partner shall not acquire any rights or economic interest in the cash otherwise payable upon such Redemption or the REIT Shares otherwise issuable upon such exchange.

(f) Notwithstanding anything herein to the contrary (but subject to Section 8.6(e)), with respect to any Redemption or exchange for REIT Shares pursuant to this Section 8.6: (i) a portion of the OP Units acquired by the General Partner or SFTY, as applicable, pursuant thereto shall automatically, and without further action required, be converted into and deemed to be General Partner Interests and all other OP Units shall be deemed to be Limited Partner Interests and held by SFTY in its capacity as a Limited Partner in the Partnership such that, immediately after such Redemption, the requirements of Section 4.1(b) continue to be met; (ii) without the consent of the General Partner, each Limited Partner may effect a Redemption only one time in each fiscal quarter; (iii) without the consent of the General Partner, each Limited Partner may not effect a Redemption for less than one thousand (1,000) OP Units or, if the Limited Partner holds less than one thousand (1,000) OP Units, all of the OP Units held by such Limited Partner; (iv) without the consent of the General Partner, each Limited Partner may

59

not effect a Redemption during the period after the Partnership Record Date with respect to a distribution and before the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such distribution; (v) the consummation of any Redemption or exchange for REIT Shares shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; and (vi) each Tendering Partner shall continue to own all OP Units subject to any Redemption or exchange for REIT Shares, and be treated as a Limited Partner with respect to such OP Units for all purposes of this Agreement, until such OP Units are transferred to the General Partner or SFTY, as applicable, and paid for or exchanged on the Specified Redemption Date. Until a Specified Redemption Date, the Tendering Partner shall have no rights as a stockholder of SFTY with respect to such Tendering Partner’s OP Units.

(g) In the event that the Partnership issues additional Partnership Interests to any Additional Limited Partner pursuant to Section 4.4, the General Partner shall make such revisions to this Section 8.6 as it determines are necessary to reflect the issuance of such additional Partnership Interests.

## ARTICLE IX

### BOOKS, RECORDS, ACCOUNTING AND REPORTS

#### Section 9.1. **Records and Accounting.**

(a) The General Partner shall keep or cause to be kept at the principal office of the Partnership those records and documents required to be maintained by the Act and other books and records deemed by the General Partner to be appropriate with respect to the Partnership’s business,

including, without limitation, all books and records necessary to provide to the Limited Partners any information, lists and copies of documents required to be provided pursuant to Section 8.5 or 9.3 hereof. Any records maintained by or on behalf of the Partnership in the regular course of its business may be kept on, or be in the form for, magnetic tape, photographs, micrographics or any other information storage device, **provided, that** the records so maintained are convertible into clearly legible written form within a reasonable period of time. The books of the Partnership shall be maintained, for financial reporting purposes, on an accrual basis in accordance with generally U.S. GAAP.

(b) The books of the Partnership shall be maintained, for financial reporting purposes, on an accrual basis in accordance with U.S. GAAP, or on such other basis as the General Partner determines to be necessary or appropriate. To the extent permitted by sound accounting practices and principles, the Partnership and the General Partner may operate with integrated or consolidated accounting records, operations and principles. The Partnership also shall maintain its tax books on the accrual basis.

Section 9.2. **Partnership Year.** The Partnership Year of the Partnership shall be the calendar year unless otherwise required under the Code.

60

---

Section 9.3. **Reports.**

(a) As soon as practicable, but in no event later than the date on which the General Partner mails its annual report to its stockholders, the General Partner shall cause to be mailed to each Limited Partner an annual report, as of the close of the most recently ended Partnership Year, containing financial statements of the Partnership, or of the General Partner if such statements are prepared solely on a consolidated basis with the Partnership, for such Partnership Year, presented in accordance with U.S. GAAP, such statements to be audited by a nationally recognized firm of independent public accountants selected by the General Partner.

(b) If and to the extent that the General Partner mails quarterly reports to its stockholders, as soon as practicable, but in no event later than the date on such reports are mailed, the General Partner shall cause to be mailed to each Limited Partner a report containing unaudited financial statements, as of the last day of such fiscal quarter, of the Partnership, or of the General Partner if such statements are prepared solely on a consolidated basis with the Partnership, and such other information as may be required by applicable law or regulations, or as the General Partner determines to be appropriate.

(c) The General Partner shall have satisfied its obligations under Sections 9.3(a) and 9.3(b) by posting or making available the reports required by this Section 9.3 on the website maintained from time to time by the Partnership **provided, that** such reports are able to be printed or downloaded from such website.

(d) At the request of any Limited Partner, the General Partner shall provide access to the books, records and work paper upon which the reports required by this Section 9.3 are based, to the extent required by the Act.

**ARTICLE X**

**TAX MATTERS**

Section 10.1. **Preparation of Tax Returns.** The General Partner shall arrange for the preparation and timely filing of all returns with respect to Partnership income, gains, deductions, losses and other items required of the Partnership for federal and state income tax purposes and shall use all reasonable effort to furnish, within ninety (90) days of the close of each taxable year, the tax information reasonably required by Limited Partners for federal and state income tax reporting purposes. The Limited Partners shall promptly provide the General Partner with such information relating to the Contributed Properties, including tax basis and other relevant information, as may be reasonably requested by the General Partner from time to time.

Section 10.2. **Tax Elections.**

(a) Except as otherwise provided herein, the General Partner shall, in its sole and absolute discretion, determine whether to make any available election pursuant to the Code, including, but not limited to, the election under Code Section 754. The General Partner shall have the right to seek to revoke any such election (including, without limitation, any election under Code Sections 461(h) and 754) upon the General Partner's determination in its sole and absolute discretion that such revocation is in the best interests of the Partners.

61

---

(b) To the extent provided for in Regulations, revenue rulings, revenue procedures and/or other IRS guidance issued after the date hereof, the Partnership is hereby authorized to, and at the direction of the General Partner shall, elect a safe harbor under which the fair market value of any Partnership Interests issued in connection with the performance of services after the effective date of such Regulations (or other guidance) will be treated as equal to the liquidation value of such Partnership Interests (i.e., a value equal to the total amount that would be distributed with respect to such interests if the Partnership sold all of its assets for their fair market value immediately after the issuance of such Partnership Interests, satisfied its liabilities (excluding any non-recourse liabilities to the extent the balance of such liabilities exceed the fair market value of the assets that secure them) and distributed the net proceeds to the Partners under the terms of this agreement). In the event that the Partnership makes a safe harbor election as described in the preceding sentence, each Partner hereby agrees to comply with all safe harbor requirements with respect to transfers of such Partnership Interests while the safe harbor election remains effective.

Section 10.3. **Tax Matters Partner.**

(a) The General Partner shall be designated the "tax matters partner" pursuant to Code Section 6231(a)(7) for Partnership Years beginning before January 1, 2018 and the "partnership representative" pursuant to Code Section 6223 for Partnership Years beginning after December 31, 2017 (collectively, the "**Tax Matters Partner**") with respect to operations conducted by the Partnership pursuant to this Agreement. The Tax Matters Partner is authorized to represent the Partnership (at the expense of the Partnership) in connection with all examinations of the affairs of the Partnership by any U.S. federal, state or local tax authorities, including any resulting administrative and judicial proceedings, and to expend funds of the Partnership for professional services and costs associated therewith. The Tax Matters Partner shall at the expense of the Partnership furnish the Partners with status reports regarding any

negotiation between the IRS (or any relevant state or local taxing authority) and the Partnership. As the Tax Matters Partner, the General Partner may cause the Partnership to make all elections required or permitted to be made by the Partnership under the Code or any state or local tax law (except as otherwise provided herein) including, if the Partnership is eligible, the election out of the partnership audit rules for partnerships with 100 or fewer partners, as provided in Code Section 6221(b), and the election under Code Section 6226, in each case applicable to Partnership Years beginning after December 31, 2017. In exercising its responsibilities as Tax Matters Partner, the General Partner shall have final decision making authority with respect to all federal, state, local, and foreign tax matters involving the Partnership. Any expenses incurred by the Tax Matters Partner in carrying out its responsibilities and duties under this Agreement shall be allocated to and charged to the Partnership as an expense of the Partnership for which the Tax Matters Partner shall be reimbursed.

(b) Each Partner shall give prompt notice to the Tax Matters Partner of any and all notices it receives from the IRS or any relevant state or local taxing authority concerning the Partnership and its federal, state or local income tax return. If any administrative proceeding contemplated under Code Section 6223 has begun, the Partners shall, upon request by the Tax Matters Partner, notify the Tax Matters Partner of their treatment of any Partnership item on their U.S. federal income tax return, if applicable, which is or may be inconsistent with the treatment of that item on the Partnership's return. Any Partner who enters into a settlement agreement with

62

---

the IRS with respect to Partnership items shall notify the General Partner of such settlement agreement and its terms within 30 days after the date of such settlement.

(c) The Tax Matters Partner shall use its commercially reasonable efforts to minimize the financial burden of any adjustment of an item of Partnership income, gain, loss, deduction or credit, or the allocation of all or a portion of any such item among the Partners (each such item or allocation thereof, a "Partnership Item") to each Partner and former Partner that held an Interest in the Partnership during a reviewed Partnership Year, through the application of the procedures established pursuant to Code Section 6225(c), or through an election and the furnishing of statements pursuant to Code Section 6226, in each case as applicable to Partnership Years beginning after December 31, 2017, provided that the Tax Matters Partner shall not make such election or furnish such statements if the Tax Matters Partner reasonably determines that doing so would preclude the contest of any adjustment of a Partnership Item that the Tax Matters Partner intends to pursue.

(d) Each Partner and former Partner agrees to indemnify and hold harmless the Partnership and the General Partner from and against any liability for any "imputed underpayment" as defined in Code Section 6225 (including any interest and penalties) imposed on the Partnership and attributable to such Partner's allocable share of any adjustment to any item of Partnership income, gain, loss, deduction or credit, or the allocation of all or a portion of any such item among the Partners, in any Partnership Year in which such Partner or former Partner was a partner in the Partnership, as determined by the General Partner in its discretion.

(e) The obligations of this Section 10.3 shall survive the Transfer of a Partnership Unit, the withdrawal of any Limited Partner, and the termination of the Partnership and this Agreement.

(f) The taking of any action and the incurring of any expense by the Tax Matters Partner in connection with any such proceeding, except to the extent required by law, is a matter in the sole and absolute discretion of the Tax Matters Partner and the provisions relating to indemnification of the General Partner set forth in Section 7.7 hereof shall be fully applicable to the Tax Matters Partner in its capacity as such.

Section 10.4. **Withholding.** Each Limited Partner hereby authorizes the Partnership to withhold from or pay on behalf of or with respect to such Limited Partner any amount of federal, state, local or foreign taxes that the General Partner determines that the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Limited Partner pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Partnership pursuant to Code Sections 1441, 1442, 1445, 1446, or 1471-1474 and the Treasury Regulations thereunder. Any amount paid on behalf of or with respect to a Limited Partner, in excess of any withheld amounts shall constitute a loan by the Partnership to such Limited Partner, which loan shall be repaid by such Limited Partner within fifteen (15) days after notice from the General Partner that such payment must be made unless (i) the Partnership withholds such payment from a distribution that would otherwise be made to the Limited Partner or (ii) the General Partner determines, in its sole and absolute discretion, that such payment may be satisfied out of the Available Cash of the Partnership that would, but for such payment, be distributed to the Limited Partner. Each Limited Partner hereby unconditionally and irrevocably

63

---

grants to the Partnership a security interest in such Limited Partner's Partnership Interest to secure such Limited Partner's obligation to pay to the Partnership any amounts required to be paid pursuant to this Section 10.4. In the event that a Limited Partner fails to pay any amounts owed to the Partnership pursuant to this Section 10.4 when due, the General Partner may, in its sole and absolute discretion, elect to make the payment to the Partnership on behalf of such defaulting Limited Partner, and in such event shall be deemed to have loaned such amount to such defaulting Limited Partner and shall succeed to all rights and remedies of the Partnership as against such defaulting Limited Partner (including, without limitation, the right to receive distributions). Any amounts payable by a Limited Partner hereunder shall bear interest at the base rate on corporate loans at large United States money center commercial banks, as published from time to time in The Wall Street Journal, plus four percentage points (but not higher than the maximum lawful rate) from the date such amount is due (*i.e.*, fifteen (15) days after demand) until such amount is paid in full. Each Limited Partner shall take such actions as the Partnership or the General Partner shall request in order to perfect or enforce the security interest created hereunder.

Section 10.5. **Organizational Expenses.** The Partnership shall elect to amortize expenses, if any, incurred by it in organizing the Partnership ratably over a one hundred eighty (180) month period as provided in Code Section 709.

## ARTICLE XI

### TRANSFERS AND WITHDRAWALS

Section 11.1. **Transfer.**

(a) No part of the interest of a Partner shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

(b) No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article XI. Any Transfer or purported Transfer of a Partnership Interest not made in accordance with this Article XI shall be null and void *ab initio* unless consented to by the General Partner in its sole and absolute discretion.

(c) Except in accordance with the terms and conditions set forth in this Article XI, no Transfer of any Partnership Interest may be made to a lender to the Partnership or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Partnership whose loan constitutes a Nonrecourse Liability, without the consent of the General Partner in its sole and absolute discretion; **provided, that** as a condition to such consent, the lender will be required to enter into an arrangement with the Partnership, the General Partner and SFTY to redeem or exchange for REIT Shares any Partnership Units in which a security interest is held by such lender concurrently with such time as such lender would be deemed to be a partner in the Partnership for purposes of allocating liabilities to such lender under Code Section 752.

64

---

#### Section 11.2. **Transfer of General Partner's Partnership Interest and SFTY's Limited Partnership Interests.**

(a) Neither the General Partner nor SFTY may Transfer any of its Partnership Interests except in connection with (i) a transaction permitted under Section 11.2(b), (ii) any merger (including a triangular merger), consolidation or other combination of the General Partner or SFTY with or into another Person following the consummation of which the equity holders of the ultimate parent of the General Partner are substantially identical to the stockholders of SFTY immediately prior to such transaction, (iii) a transfer to any Subsidiary of SFTY or (iv) as otherwise expressly permitted under this Agreement, nor shall the General Partner or SFTY withdraw as a Partner except in connection with a transaction permitted under Section 11.2(b) or any merger, consolidation, or other combination permitted under clause (ii) of this Section 11.2(a).

(b) Neither the General Partner nor SFTY shall engage in any merger (including, without limitation, a triangular merger), consolidation or other combination with or into another Person (other than any transaction permitted by Section 11.2(a)), any sale of all or substantially all of its assets or any reclassification, recapitalization or change of outstanding REIT Shares (other than a change in par value, or from par value to no par value, or as a result of a subdivision or combination as described in the definition of "Adjustment Factor") ("**Termination Transaction**"), unless (i) it receives the consent of a Majority in Interest of the Outside Limited Partners, (ii) following such merger or other consolidation, substantially all of the assets of the surviving entity consist of OP Units or (iii) in connection with which all Partners (other than the General Partner and SFTY) who hold OP Units either will receive, or will have the right to receive, for each OP Unit an amount of cash, securities, or other property equal to the product of the Adjustment Factor and the greatest amount of cash, securities or other property paid to a holder of REIT Shares in consideration of one such REIT Share at any time during the period from and after the date on which the Termination Transaction is consummated; **provided, however, that**, if in connection with the Termination Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of the percentage required for the approval of mergers under the organizational documents of SFTY, each holder of OP Units shall receive, or shall have the right to receive without any right of Consent set forth above in this Section 11.2(b), the greatest amount of cash, securities, or other property which such holder would have received had it exercised the Redemption Right and received REIT Shares in exchange for its OP Units immediately prior to the expiration of such purchase, tender or exchange offer and had thereupon accepted such purchase, tender or exchange offer.

(c) The General Partner and SFTY shall not enter into an agreement or other arrangement providing for or facilitating the creation of a General Partner other than the General Partner, unless the successor General Partner executes and delivers a counterpart to this Agreement in which such General Partner agrees to be fully bound by all of the terms and conditions contained herein that are applicable to a General Partner.

#### Section 11.3. **Transfer of Limited Partners' Partnership Interests.**

(a) Except as permitted in Section 11.2 for Transfers by SFTY, no Limited Partner shall Transfer all or any portion of its Partnership Interest to any transferee without the

65

---

written consent of the General Partner, which consent may be withheld in its sole and absolute discretion; **provided, however, that** any Limited Partner may, at any time, without the consent or approval of the General Partner, (i) Transfer all or part of its Partnership Interest to any Family Member (including a Transfer by a Family Member that is an *inter vivos* or testamentary trust (whether revocable or irrevocable) to a Family Member that is a beneficiary of such trust), any Charity, any Controlled Entity or any Affiliate or (ii) pledge all or any portion of its Partnership Interest to a lending institution as collateral or security for a bona fide loan or other extension of credit, and Transfer such pledged Partnership Interest to such lending institution in connection with the exercise of remedies under such loan or extension of credit. To the extent such a Transfer is made to a Controlled Entity or any Affiliate and such Transferee thereafter ceases to be a Controlled Entity or Affiliate of the Transferor, then a Transfer shall be deemed to occur at such time as such Transferee ceases to be a Controlled Entity or any Affiliate of the Transferor.

(b) Without limiting the generality of Section 11.3(a) hereof, it is expressly understood and agreed that, to the extent the General Partner has the right to consent to any Transfer pursuant to Section 11.3(a) above, the General Partner will not consent to any Transfer of all or any portion of any Partnership Interest pursuant to Section 11.3(a) above unless such Transfer meets each of the following conditions:

(i) Such Transfer is made only to a single Qualified Transferee; **provided, however, that** for such purposes, all Qualified Transferees that are Affiliates, or that comprise investment accounts or funds managed by a single Qualified Transferee and its Affiliates, shall be considered together to be a single Qualified Transferee.

(ii) The transferee in such Transfer assumes by operation of law or express agreement all of the obligations of the transferor Limited Partner under this Agreement with respect to such Transferred Partnership Interest; **provided, that** no such Transfer (unless made pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor Partner are assumed by a successor corporation by operation of law) shall relieve the transferor Partner of its obligations under this Agreement without the approval of the General Partner, in its sole and absolute discretion.

Notwithstanding the foregoing, any transferee of any Transferred Partnership Interest shall be subject to any and all ownership limitations contained in the Charter that may limit or restrict such transferee's ability to exercise its Redemption rights, including, without limitation, the Ownership Limit. Any transferee, whether or not admitted as a Substituted Limited Partner, shall take subject to the obligations of the transferor hereunder. Unless admitted as a Substituted Limited Partner, no transferee, whether by a voluntary Transfer, by operation of law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in Section 11.5 hereof.

(iii) Such Transfer is effective as of the first day of a fiscal quarter of the Partnership.

(c) If a Limited Partner is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Limited Partner's estate shall have all the rights of a Limited Partner, but not more rights than those enjoyed by other Limited Partners, for the purpose of settling or managing the estate, and such power as the Incapacitated

66

---

Limited Partner possessed to Transfer all or any part of its interest in the Partnership. The Incapacity of a Limited Partner, in and of itself, shall not dissolve or terminate the Partnership.

(d) In connection with any proposed Transfer of a Limited Partner Interest, the General Partner shall have the right to receive an opinion of counsel reasonably satisfactory to it to the effect that the proposed Transfer may be effected without registration under the Securities Act and will not otherwise violate any federal or state securities laws or regulations applicable to the Partnership or the Partnership Interests Transferred.

(e) The General Partner may impose restrictions on the Transfer of a Limited Partner Interest if it receives an opinion of counsel reasonably to the effect that such restrictions are necessary in order to comply with any federal or state securities laws or regulations applicable to the Partnership or the Partnership Interests. The General Partner may impose such restrictions by amending this Agreement without the approval of the Partners.

(f) No Transfer by a Limited Partner of its Partnership Interests (including any Redemption, any other acquisition of Partnership Units by the Partnership, the General Partner or SFTY) may be made to or by any person if (i) in the opinion of legal counsel for the Partnership, there is a significant risk that it would result in the Partnership being treated as an association taxable as a corporation for U.S. federal income tax purposes (except as a result of the redemption or exchange of all Units held by all Limited Partners for REIT Shares), (ii) such Transfer would be effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704 (**provided, that this clause (ii) shall not be the basis for limiting or restricting in any manner the exercise of a Redemption right unless, and only to the extent that, in the absence of such limitation or restriction, in the opinion of legal counsel for the Partnership, there is a significant risk that the Partnership will be treated as a "publicly traded partnership" and, by reason thereof, taxable as a corporation) or (iii) in the opinion of legal counsel for the Partnership, there is a risk that such transfer would adversely affect the ability of SFTY to continue to qualify as a REIT or subject SFTY to any additional taxes under Code Section 857 or Code Section 4981.**

#### Section 11.4. **Substituted Limited Partners.**

(a) A transferee of the interest of a Limited Partner in accordance with Section 11.3(a) may be admitted as a Substituted Limited Partner only with the consent of the General Partner, which consent may be given or withheld by the General Partner in its sole and absolute discretion. The failure or refusal by the General Partner to permit a transferee of any such interests to become a Substituted Limited Partner shall not give rise to any cause of action against the Partnership or the General Partner. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Limited Partner until and unless it furnishes to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all the terms, conditions and applicable obligations of this Agreement, including, without limitation, the power of attorney granted in Section 2.4 hereof, (ii) a counterpart signature page to this Agreement executed by such Assignee, and (iii) such other documents and instruments as may be required or advisable, in the sole and absolute discretion of the General Partner, to effect such Assignee's admission as a Substituted Limited Partner.

67

---

(b) A transferee who has been admitted as Substituted Limited Partner in accordance with this Article XI shall have all the rights and powers and be subject to all the restrictions and liabilities of a Limited Partner under this Agreement.

(c) Upon the admission of a Substituted Limited Partner, the General Partner shall amend Exhibit A attached hereto to reflect the name, address and number of Partnership Units of such Substituted Limited Partner and to eliminate or adjust, if necessary, the name, address and number of Partnership Units of the predecessor of such Substituted Limited Partner.

Section 11.5. **Assignees.** If the General Partner, in its sole and absolute discretion, does not consent to the admission of any transferee of any Partnership Interest as a Substituted Limited Partner in connection with a transfer required to be consented to by the General Partner pursuant to Section 11.3(a), such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited partnership interest under the Act, including the right to receive distributions from the Partnership and the share of Net Income, Net Losses and other items of income, gain, loss, deduction and credit of the Partnership attributable to the Partnership Units assigned to such transferee and the rights to Transfer the Partnership Units only in accordance with the provisions of this Article XI, but shall not be deemed to be a holder of Partnership Units for any other purpose under this Agreement, and shall not be entitled to effect a Consent or vote or effect a Redemption with respect to such Partnership Units on any matter presented to the Limited Partners for approval (such right to Consent or vote or effect a Redemption, to the extent provided in this Agreement or under the Act, fully remaining with the transferor Limited Partner). In the event that any such transferee desires to make a further assignment of any such Partnership Units, such transferee shall be subject to all the provisions of this Article XI to the same extent and in the same manner as any Limited Partner desiring to make an assignment of Partnership Units.

#### Section 11.6. **General Provisions.**

(a) No Limited Partner may withdraw from the Partnership other than as a result of a permitted Transfer of all of such Limited Partner's Partnership Units in accordance with this Article XI or pursuant to a redemption (or acquisition by the General Partner) of all of its Partnership

Units pursuant to a Redemption under Section 8.6 hereof and/or pursuant to any Partnership Unit Designation.

(b) Any Limited Partner who shall Transfer all of its Partnership Units in a Transfer (i) consented to by the General Partner or otherwise permitted pursuant to this Article XI where such transferee was admitted as a Substituted Limited Partner, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Partnership Units pursuant to a Redemption under Section 8.6 hereof and/or pursuant to any Partnership Unit Designation, or (iii) to the General Partner or SFTY, whether or not pursuant to Section 8.6(b) hereof, shall cease to be a Limited Partner.

(c) Subject to Section 6.4, if any Partnership Unit is Transferred in compliance with the provisions of this Article XI, or is redeemed by the Partnership, or acquired by SFTY pursuant to Section 8.6 hereof, on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss,

---

deduction and credit attributable to such Partnership Unit for such Partnership Year shall be allocated to the transferor Partner or the Tendering Party, as the case may be, and, in the case of a Transfer or assignment other than a Redemption, to the transferee Partner, by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d) and the corresponding Regulations, using the “interim closing of the books” method or another permissible method selected by the General Partner (unless the General Partner in its sole and absolute discretion elects to adopt a daily, weekly or monthly proration period, in which case Net Income or Net Loss shall be allocated based upon the applicable method selected by the General Partner). All distributions of Available Cash attributable to such Partnership Unit with respect to which the Partnership Record Date is before the date of such Transfer, assignment or Redemption shall be made to the transferor Partner or the Tendering Party, as the case may be, and, in the case of a Transfer other than a Redemption, all distributions of Available Cash thereafter attributable to such Partnership Unit shall be made to the transferee Partner.

## ARTICLE XII

### ADMISSION OF PARTNERS

Section 12.1. **Admission of Successor General Partner.** A successor to all of the General Partner’s General Partner Interest pursuant to Section 11.2 hereof who is proposed to be admitted as a successor General Partner shall be admitted to the Partnership as the General Partner, effective immediately prior to such Transfer. Any such successor shall carry on the business of the Partnership without dissolution. In each case, the admission shall be subject to the successor General Partner executing and delivering to the Partnership an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required to effect the admission. Concurrently with, and as evidence of, the admission of an Additional Limited Partner, the General Partner shall amend Exhibit A attached hereto and the books and records of the Partnership to reflect the name, address and number of Partnership Units of such Additional Limited Partner.

Section 12.2. **Admission of Additional Limited Partners.**

(a) After the date hereof, a Person (other than an existing Partner) who makes a Capital Contribution to the Partnership in accordance with this Agreement shall be admitted to the Partnership as an Additional Limited Partner only upon furnishing to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in Section 2.4 hereof, (ii) a counterpart signature page to this Agreement executed by such Person, and (iii) such other documents or instruments as may be required in the sole and absolute discretion of the General Partner in order to effect such Person’s admission as an Additional Limited Partner and the satisfaction of all the conditions set forth in this Section 12.2.

(b) Notwithstanding anything to the contrary in this Section 12.2, no Person shall be admitted as an Additional Limited Partner without the consent of the General Partner, which consent may be given or withheld in the General Partner’s sole and absolute discretion. The admission of any Person as an Additional Limited Partner shall become effective on the date

---

upon which the name of such Person is recorded on the books and records of the Partnership, following the consent of the General Partner to such admission.

(c) Subject to Section 6.4, if any Additional Limited Partner is admitted to the Partnership on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Partners and Assignees for such Partnership Year shall be allocated *pro rata* among such Additional Limited Partner and all other Partners and Assignees by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the “interim closing of the books” method or another permissible method selected by the General Partner. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Limited Partner occurs shall be allocated among all the Partners and Assignees including such Additional Limited Partner, in accordance with the principles described in Section 11.6(c) hereof. All distributions of Available Cash with respect to which the Partnership Record Date is before the date of such admission shall be made solely to Partners and Assignees other than the Additional Limited Partner, and all distributions of Available Cash thereafter shall be made to all the Partners and Assignees including such Additional Limited Partner.

Section 12.3. **Amendment of Agreement and Certificate of Limited Partnership.** For the admission to the Partnership of any Partner, the General Partner shall take all steps necessary and appropriate under the Act to amend the books and records of the Partnership and, if necessary, to prepare as soon as practical an amendment of this Agreement (including an amendment of Exhibit A) and, if required by law, shall prepare and file an amendment to the Certificate of Limited Partnership and may for this purpose exercise the power of attorney granted pursuant to Section 2.4.

Section 12.4. **Limit on Number of Partners.** Unless otherwise permitted by the General Partner, no Person shall be admitted to the Partnership as an Additional Limited Partner if the effect of such admission would be to cause the Partnership to have a number of Partners that would cause the Partnership to become a reporting company under the Exchange Act.

Section 12.5. **Admission.** A Person shall be admitted to the Partnership as a Limited Partner of the Partnership only upon strict compliance, and not upon substantial compliance, with the requirements set forth in this Agreement for admission to the Partnership as an Additional Limited Partner.



Concurrently with, and as evidence of, the admission of an Additional Limited Partner, the General Partner shall amend Exhibit A attached hereto to reflect the name, address and number of Partnership Units of such Additional Limited Partner.

## ARTICLE XIII

### DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.1. **Dissolution.** The Partnership shall not be dissolved by the admission of Additional Limited Partners or Substituted Limited Partners or by the admission of a successor General Partner in accordance with the terms of this Agreement. Upon the withdrawal of the General Partner, any successor General Partner shall continue the business of the Partnership

70

---

without dissolution. However, the Partnership shall dissolve, and its affairs shall be wound up, upon the first to occur of any of the following (each a “**Liquidating Event**”):

- (a) a final and nonappealable judgment is entered by a court of competent jurisdiction ruling that the General Partner is bankrupt or insolvent, or a final and nonappealable order for relief is entered by a court with appropriate jurisdiction against the General Partner, in each case under any federal or state bankruptcy or insolvency laws as now or hereafter in effect, unless, prior to the entry of such order or judgment, of the remaining Outside Limited Partners agree in writing, in their sole and absolute discretion, to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such order or judgment, of a successor General Partner;
- (b) an election to dissolve the Partnership made by the General Partner in its sole and absolute discretion;
- (c) entry of a decree of judicial dissolution of the Partnership pursuant to the provisions of the Act;
- (d) the occurrence of a Terminating Capital Transaction; or
- (e) the Redemption (or acquisition by the General Partner) of all Partnership Units other than Partnership Units held by the General Partner or SFTY; or
- (f) the Incapacity or withdrawal of the General Partner, unless all of the remaining Partners in their sole and absolute discretion agree in writing to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such Incapacity, of a substitute General Partner.

Section 13.2. **Winding Up.**

(a) Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and Partners. After the occurrence of a Liquidating Event, no Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Partnership’s business and affairs. The General Partner or, in the event that there is no remaining General Partner or the General Partner has dissolved, become bankrupt within the meaning of the Act or ceased to operate, any Person elected by a Majority in Interest of the Outside Limited Partners (the General Partner or such other Person being referred to herein as the “**Liquidator**”) shall be responsible for overseeing the winding up and dissolution of the Partnership and shall take full account of the Partnership’s liabilities and property, and the Partnership property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom (which may, to the extent determined by the General Partner, include shares of stock in the General Partner) shall be applied and distributed in the following order:

(i) *First*, to the satisfaction of all of the Partnership’s Debts and liabilities to creditors other than the Partners and their Assignees (whether by payment or the making of reasonable provision for payment thereof);

71

---

(ii) *Second*, to the satisfaction of all of the Partnership’s Debts and liabilities to the General Partner (whether by payment or the making of reasonable provision for payment thereof), including, but not limited to, amounts due as reimbursements under Section 7.4 hereof;

(iii) *Third*, to the satisfaction of all of the Partnership’s Debts and liabilities to the other Partners and any Assignees (whether by payment or the making of reasonable provision for payment thereof); and

(iv) *The balance*, if any, to the General Partner, the Limited Partners and any Assignees in accordance with their Capital Account balances, after giving effect to all contributions, distributions and allocations for all periods.

The General Partner shall not receive any additional compensation for any services performed pursuant to this Article XIII.

(b) Notwithstanding the provisions of Section 13.2(a) hereof that require liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership’s assets would be impractical or would cause undue loss to the Partners, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Partners as creditors) and/or distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.2(a) hereof, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Partners, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

(c) If the General Partner has a deficit balance in its Capital Account at such time as the Partnership (or the General Partner's interest therein, including its interest as a Limited Partner) is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g) (after giving effect to all contributions, distributions and allocations for the taxable years, including the year during which such liquidation occurs), the General Partner shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(3). If any Limited Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for the taxable years, including the year during which such liquidation occurs), such Limited Partner shall have no obligation to make any contribution to the capital of the Partnership with respect to such deficit, and such deficit at any time shall not be considered a Debt owed to the Partnership or to any other Person for any purpose whatsoever, except to the extent otherwise expressly agreed to by such Partner and the Partnership.

72

---

(d) In the sole and absolute discretion of the General Partner or the Liquidator, a *pro rata* portion of the distributions that would otherwise be made to the Partners pursuant to this Article XIII may be:

(i) distributed to a trust established for the benefit of the General Partner and the Limited Partners for the purpose of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership and/or Partnership activities. The assets of any such trust shall be distributed to the General Partner and the Limited Partners, from time to time, in the reasonable discretion of the General Partner or the Liquidator, in the same proportions and amounts as would otherwise have been distributed to the General Partner and the Limited Partners pursuant to this Agreement; or

(ii) withheld or escrowed to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, **provided, that** such withheld or escrowed amounts shall be distributed to the General Partner and Limited Partners in the manner and order of priority set forth in Section 13.2(a) hereof as soon as practicable.

**Section 13.3. Deemed Distribution and Recontribution.** Notwithstanding any other provision of this Article XIII, in the event that the Partnership is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but no Liquidating Event has occurred, the Partnership's Property shall not be liquidated, the Partnership's liabilities shall not be paid or discharged and the Partnership's affairs shall not be wound up. Instead, for federal income tax purposes the Partnership shall be deemed to have contributed all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, distributed interests in the new partnership to the Partners in accordance with their respective Capital Accounts in liquidation of the Partnership, and the new partnership is deemed to continue the business of the Partnership. Nothing in this Section 13.3 shall be deemed to have constituted any Assignee as a Substituted Limited Partner without compliance with the provisions of Section 11.4 hereof.

**Section 13.4. Rights of Limited Partners.** Except as otherwise provided in this Agreement, (a) each Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution, (b) no Limited Partner shall have the right or power to demand or receive property other than cash from the Partnership, and (c) no Limited Partner (other than any Limited Partner who holds Preferred Units, to the extent specifically set forth herein and in the applicable Partnership Unit Designation) shall have priority over any other Limited Partner as to the return of its Capital Contributions, distributions or allocations.

**Section 13.5. Notice of Dissolution.** In the event that a Liquidating Event occurs or an event occurs that would, but for an election or objection by one or more Partners pursuant to Section 13.1 hereof, result in a dissolution of the Partnership, the General Partner shall, within thirty (30) days thereafter, provide written notice thereof to each of the Partners and, in the General Partner's sole and absolute discretion or as required by the Act, to all other parties with whom the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner), and the General Partner may, or, if required by the Act, shall,

73

---

publish notice thereof in a newspaper of general circulation in each place in which the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner).

**Section 13.6. Cancellation of Certificate of Limited Partnership.** Upon the completion of the liquidation of the Partnership cash and property as provided in Section 13.2 hereof, the Partnership shall be terminated, a certificate of cancellation shall be filed with the State of Delaware, all qualifications of the Partnership as a foreign limited partnership or association in jurisdictions other than the State of Delaware shall be cancelled, and such other actions as may be necessary to terminate the Partnership shall be taken.

**Section 13.7. Reasonable Time for Winding-Up.** A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of its assets pursuant to Section 13.2 hereof, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect between the Partners during the period of liquidation.

## ARTICLE XIV

### PROCEDURES FOR ACTIONS AND CONSENTS OF PARTNERS; AMENDMENTS; MEETINGS

**Section 14.1. Procedures for Actions and Consents of Partners.** The actions requiring consent or approval of Limited Partners pursuant to this Agreement, including Section 7.3 hereof, or otherwise pursuant to applicable law, rule or regulation, are subject to the procedures set forth in this Article XIV.

**Section 14.2. Amendments.** Amendments to this Agreement requiring Consent of the Limited Partners may be proposed only by the General Partner. Following such proposal, the General Partner shall submit any proposed amendment to the Limited Partners. The General Partner shall seek the written consent of the Limited Partners on the proposed amendment or shall call a meeting to vote thereon and to transact any other business that the General Partner may deem appropriate. For purposes of obtaining a written consent, the General Partner may require a response within a reasonable specified time,

but not less than ten (10) days, and failure to respond in such time period shall constitute a consent that is consistent with the General Partner's recommendation with respect to the proposal; **provided, however, that** an action shall become effective at such time as requisite consents are received even if prior to such specified time. Notwithstanding anything to the contrary in this Agreement, the General Partner shall have the power, without the consent of the Limited Partners, to amend this Agreement as contemplated by Section 7.3(c) or as is otherwise contemplated by this Agreement.

Section 14.3. **Meetings of the Partners.**

(a) Meetings of the Partners may be called by the General Partner. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Partners not less than seven days nor more than ninety (90) days prior to the date of such meeting. Partners may vote in person or by proxy at such meeting. Whenever the vote or

74

---

Consent of Partners is permitted or required under this Agreement, such vote or Consent may be given at a meeting of Partners or may be given in accordance with the procedure prescribed in Section 14.3(b) hereof.

(b) Any action required or permitted to be taken at a meeting of the Partners may be taken without a meeting if a written consent setting forth the action so taken is signed by a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement for the action in question). Such consent may be in one instrument or in several instruments, and shall have the same force and effect as a vote of a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement). Such consent shall be filed with the General Partner. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified.

(c) Each Limited Partner may authorize any Person or Persons to act for it by proxy on all matters in which a Limited Partner is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Limited Partner or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy (or there is receipt of a proxy authorizing a later date). Every proxy shall be revocable at the pleasure of the Limited Partner executing it, such revocation to be effective upon the Partnership's receipt of written notice of such revocation from the Limited Partner executing such proxy. The use of proxies will be governed in the same manner as in the case of corporations organized under the Delaware General Corporation Law (including Section 212 thereof).

(d) Each meeting of Partners shall be conducted by the General Partner or such other Person as the General Partner may appoint pursuant to such rules for the conduct of the meeting as the General Partner or such other Person deems appropriate in its sole and absolute discretion. Without limitation, meetings of Partners may be conducted in the same manner as meetings of the General Partner's stockholders and may be held at the same time as, and as part of, the meetings of the General Partner's stockholders.

(e) On matters on which Limited Partners are entitled to vote, each Limited Partner holding OP Units shall have a vote equal to the number of OP Units held.

(f) Except as otherwise expressly provided in this Agreement, the Consent of Holders of Partnership Interests representing a majority of the Partnership Interests of the Limited Partners shall control.

**ARTICLE XV**

**GENERAL PROVISIONS**

Section 15.1. **Addresses and Notice.** Any notice, demand, request or report required or permitted to be given or made to a Partner or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written or electronic communication (including by telecopy, facsimile, electronic mail or commercial courier service) to the Partner or Assignee at the

75

---

address set forth on Exhibit A attached hereto, as such Exhibit A may be amended from time to time, or such other address of which the Partner shall notify the General Partner in accordance with this Section 15.1.

Section 15.2. **Titles and Captions.** All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" or "Sections" are to Articles and Sections of this Agreement.

Section 15.3. **Pronouns and Plurals.** Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and *vice versa*.

Section 15.4. **Further Action.** The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.5. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.6. **Waiver.**

(a) No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

(b) The restrictions, conditions and other limitations on the rights and benefits of the Limited Partners contained in this Agreement, and the duties, covenants and other requirements of performance or notice by the Limited Partners, are for the benefit of the Partnership and, except for an obligation to pay money to the Partnership, may be waived or relinquished by the General Partner, in its sole and absolute discretion, on behalf of the Partnership in one or more instances from time to time and at any time.

Section 15.7. **Counterparts.** This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 15.8. **Applicable Law.**

(a) This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provisions of this Agreement shall control and take precedence.

76

(b) Each Partner hereby (i) submits to the non-exclusive jurisdiction of any state or federal court sitting in the State of New York (collectively, the “**New York Courts**”), with respect to any dispute arising out of this Agreement or any transaction contemplated hereby to the extent such courts would have subject matter jurisdiction with respect to such dispute, (ii) irrevocably waives, and agrees not to assert by way of motion, defense, or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of any of the New York Courts, that its property is exempt or immune from attachment or execution, that the action is brought in an inconvenient forum, or that the venue of the action is improper, (iii) agrees that notice or the service of process in any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be properly served or delivered if delivered to such Partner at such Partner’s last known address as set forth in the Partnership’s books and records, and (iv) irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement or the transactions contemplated hereby.

Section 15.9. **Entire Agreement.** This Agreement contains all of the understandings and agreements between and among the Partners with respect to the subject matter of this Agreement and the rights, interests and obligations of the Partners with respect to the Partnership. Notwithstanding the immediately preceding sentence, the Partners hereby acknowledge and agree that the General Partner, without the approval of any Limited Partner, may enter into side letters or similar written agreements with Limited Partners that are not Affiliates of the General Partner, executed contemporaneously with the admission of such Limited Partner to the Partnership, affecting the terms hereof, as negotiated with such Limited Partner and which the General Partner in its sole discretion deems necessary, desirable or appropriate. The parties hereto agree that any terms, conditions or provisions contained in such side letters or similar written agreements with a Limited Partner shall govern with respect to such Limited Partner notwithstanding the provisions of this Agreement.

Section 15.10. **Invalidity of Provisions.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 15.11. **Limitation to Preserve REIT Qualification.** Notwithstanding anything else in this Agreement, to the extent that the amount paid, credited, distributed or reimbursed by the Partnership to the General Partner, SFTY, the Manager (pursuant to the Management Agreement) or their respective officers, directors, employees or agents, whether as a reimbursement, fee, expense or indemnity (a “**REIT Payment**”), would constitute gross income to SFTY for purposes of Code Section 856(c)(2) or Code Section 856(c)(3), then, notwithstanding any other provision of this Agreement, the amount of such REIT Payments, as selected by the General Partner in its discretion from among items of potential distribution, reimbursement, fees, expenses and indemnities, shall be reduced for any Partnership Year so that the REIT Payments, as so reduced, shall not exceed the lesser of:

(i) an amount equal to the excess, if any, of (a) four point nine percent (4.9%) of SFTY’s total gross income (but excluding the amount of any REIT Payments) for the Partnership Year that is described in subsections (A) through (H) of Code Section 856(c)(2) over (b) the amount of gross income (within the meaning of Code Section 856(c)(2)) derived by the

77

General Partner from sources other than those described in subsections (A) through (H) of Code Section 856(c)(2) (but not including the amount of any REIT Payments); or

(ii) an amount equal to the excess, if any, of (a) twenty-four percent (24%) of the General Partner’s total gross income (but excluding the amount of any REIT Payments) for the Partnership Year that is described in subsections (A) through (I) of Code Section 856(c)(3) over (b) the amount of gross income (within the meaning of Code Section 856(c)(3)) derived by the General Partner from sources other than those described in subsections (A) through (I) of Code Section 856(c)(3) (but not including the amount of any REIT Payments); **provided, however, that** REIT Payments in excess of the amounts set forth in clauses (i) and (ii) above may be made if the General Partner, as a condition precedent, obtains an opinion of tax counsel that the receipt of such excess amounts shall not adversely affect SFTY’s ability to qualify as a REIT. To the extent that REIT Payments may not be made in a Partnership Year as a consequence of the limitations set forth in this Section 15.11, such REIT Payments shall carry over and shall be treated as arising in the following Partnership Year. The purpose of the limitations contained in this Section 15.11 is to prevent SFTY from failing to qualify as a REIT by reason of its share of items, including distributions, payments, reimbursements, fees, expenses or indemnities, receivable directly or indirectly from the Partnership, and this Section 15.11 shall be interpreted and applied to effectuate such purpose.

Section 15.12. **No Partition.** No Partner nor any successor-in-interest to a Partner shall have the right while this Agreement remains in effect to have any property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have such property of the Partnership partitioned, and each Partner, on behalf of itself and its successors and assigns hereby waives any such right. It is the intention of the Partners that the rights of the parties hereto and their successors-in-interest to Partnership property, as among themselves, shall be governed by the terms of this Agreement, and that the rights of the Partners and their successors-in-interest shall be subject to the limitations and restrictions as set forth in this Agreement.

Section 15.13. **No Third-Party Rights Created Hereby.** The provisions of this Agreement are solely for the purpose of defining the interests of the Partners, *inter se*; and no other person, firm or entity (*i.e.*, a party who is not a signatory hereto or a permitted successor to such signatory hereto) shall

have any right, power, title or interest by way of subrogation or otherwise, in and to the rights, powers, title and provisions of this Agreement, except that the Manager is expressly made a third-party beneficiary of the provisions of Section 7.1(a), Section 7.4(a) and Section 7.11 of this Agreement. No creditor or other third party having dealings with the Partnership (other than as expressly set forth herein with respect to Indemnitees) shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans to the Partnership or to pursue any other right or remedy hereunder or at law or in equity. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may any such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or any of the Partners.

78

Section 15.14. **No Rights as Stockholders of General Partner.** Nothing contained in this Agreement shall be construed as conferring upon the Holders of Partnership Units any rights whatsoever as stockholders of SFTY, including without limitation any right to receive dividends or other distributions made to stockholders of SFTY or to vote or to consent or receive notice as stockholders in respect of any meeting of stockholders for the election of directors of SFTY or any other matter.

Section 15.15. **Creditors.** Other than as expressly set forth herein with respect to Indemnitees, none of the provisions of this Agreement shall be for the benefit of, or shall be enforceable by, any creditor of the Partnership.

[signature page follows]

79

IN WITNESS WHEREOF, this First Amended and Restated Agreement of Limited Partnership has been executed as of the date first written above.

GENERAL PARTNER:

SIGOP GEN PAR LLC

By: /s/ Geoffrey M. Dugan  
Name: Geoffrey M. Dugan  
Title: General Counsel, Corporate and Secretary

SFTY:

SAFETY, INCOME AND GROWTH, INC.

By: /s/ Geoffrey M. Dugan  
Name: Geoffrey M. Dugan  
Title: General Counsel, Corporate and Secretary

ALL LIMITED PARTNERS LISTED ON EXHIBIT A ATTACHED  
HERETO

SAFETY, INCOME AND GROWTH, INC.

By: /s/ Geoffrey M. Dugan  
Name: Geoffrey M. Dugan  
Title: General Counsel, Corporate and Secretary

[Signature Page to Amended and Restated Agreement of Limited  
Partnership of Safety Income and Growth Operating Partnership LP]

## EXHIBIT A

### PARTNERS AND PARTNERSHIP UNITS

As of June 27, 2017

<u>Name of Limited Partners</u>	<u>OP Units</u>	<u>LTIP Units</u>	<u>Other Units</u>	<u>Address</u>
Safety, Income and Growth, Inc.	18,190,000			1114 Avenue of the Americas, New York, New York 10036

**EXHIBIT B**

**NOTICE OF REDEMPTION**

To: Safety, Income and Growth, Inc.  
SIGOP Gen Par LLC  
1114 Avenue of the Americas  
39<sup>th</sup> Floor  
New York, New York 10036  
Attn: Chief Executive Officer

The undersigned Limited Partner or Assignee hereby irrevocably tenders for Redemption [·] OP Units (the “**OP Units**”) in Safety Income and Growth Operating Partnership LP in accordance with the terms of the First Amended and Restated Agreement of Limited Partnership of Safety Income and Growth Operating Partnership LP, dated as of [·], 2017 (the “**Agreement**”), and the Redemption rights referred to therein. The undersigned Limited Partner or Assignee:

- (a) undertakes (i) to surrender such OP Units and any certificate therefor at the closing of the Redemption and (ii) to furnish to the General Partner, prior to the Specified Redemption Date, the documentation, instruments and information required under Section 8.6(g) of the Agreement;
- (b) directs that the certified check representing the Cash Amount, or the REIT Shares Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address specified below;
- (c) represents, warrants, certifies and agrees that:
  - (i) the undersigned Limited Partner or Assignee is a Qualifying Party,
  - (ii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such OP Units, free and clear of the rights or interests of any other person or entity,
  - (iii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Partnership Units as provided herein, and
  - (iv) the undersigned Limited Partner or Assignee has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and
- (d) acknowledges that he will continue to own such OP Units until and unless either (1) such OP Units are acquired by SFTY pursuant to Section 8.6(b) of the Agreement or (2) such redemption transaction closes.

B-1

All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them respectively in the Agreement.

B-2

Dated:

Name of Limited Partner or Assignee:

\_\_\_\_\_

(Signature of Limited Partner or Assignee)

(Street Address)

\_\_\_\_\_

(City)

(State)

(Zip Code)

Signature Medallion Guaranteed by:

\_\_\_\_\_

Issue Check Payable/REIT Shares to: \_\_\_\_\_

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

Please insert social security or identifying number: \_\_\_\_\_

B-3

**EXHIBIT D**

**NOTICE OF ELECTION BY PARTNER TO  
CONVERT LTIP UNITS INTO OP UNITS**

The undersigned Holder of LTIP Units hereby irrevocably (i) elects to convert the number of LTIP Units in Safety Income and Growth Operating Partnership LP (the "**Partnership**") set forth below into OP Units in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of the Partnership, as amended; and (ii) directs that any cash in lieu of OP Units that may be deliverable upon such conversion be delivered to the address specified below. The undersigned hereby represents, warrants, and certifies that the undersigned (a) has title to such LTIP Units, free and clear of the rights of interests of any other person or entity other than the Partnership; (b) has the full right, power, and authority to cause the conversion of such LTIP Units as provided herein; and (c) has obtained the consent or approval of all persons or entities, if any, having the right to consent or approve such conversion.

Name of Holder: \_\_\_\_\_

(Please Print: Exact Name as Registered with Partnership)

Number of LTIP Units to be Converted: \_\_\_\_\_

Date of this Notice: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Holder: Sign Exact Name as Registered with Partnership)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State) (Zip Code)

Signature Medallion Guaranteed by: \_\_\_\_\_

D-1

**EXHIBIT E**

**NOTICE OF ELECTION BY PARTNERSHIP TO  
FORCE CONVERSION OF LTIP UNITS INTO OP UNITS**

Safety Income and Growth Operating Partnership LP (the "**Partnership**") hereby irrevocably elects to cause the number of LTIP Units held by the Holder of LTIP Units set forth below to be converted into OP Units in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of the Partnership, as amended.

Name of Holder: \_\_\_\_\_

(Please Print: Exact Name as Registered with Partnership)

Number of LTIP Units to be Converted: \_\_\_\_\_

Date of this Notice: \_\_\_\_\_

E-1

## MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT is made as of June 27, 2017, by and among SAFETY, INCOME AND GROWTH, INC., a Maryland corporation (the “Company”), SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP, a Delaware limited partnership (the “Operating Partnership”), SFTY MANAGER LLC, a Delaware limited liability company (together with its permitted assignees, the “Manager”) and iStar Inc., a Maryland corporation (“iStar”), solely with respect to its rights under Section 14(a) and Section 21.

WHEREAS, the Company is a corporation that intends to elect and qualify to be taxed as a REIT for federal income tax purposes; and

WHEREAS, the Company and the Operating Partnership desire to retain the Manager to provide investment advisory services to them and their Subsidiaries on the terms and conditions hereinafter set forth, and the Manager wishes to be retained to provide such services.

NOW THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

Section 1. Definitions. The following terms have the following meanings assigned to them:

(a) “Agreement” means this Management Agreement, as amended, restated or supplemented from time to time.

(b) “Affiliate” means a Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified.

(c) “Assets” means the GNL assets and other assets of the Company and the Subsidiaries.

(d) “Bankruptcy” means, with respect to any Person, (a) the filing by such Person of a voluntary petition seeking liquidation, reorganization, arrangement or readjustment, in any form, of its debts under Title 11 of the United States Code or any other federal, state or foreign insolvency law, or such Person’s filing an answer consenting to or acquiescing in any such petition, (b) the making by such Person of any assignment for the benefit of its creditors, (c) the expiration of 60 days after the filing of an involuntary petition under Title 11 of the United States Code, an application for the appointment of a receiver for a material portion of the assets of such Person, or an involuntary petition seeking liquidation, reorganization, arrangement or readjustment of its debts under any other federal, state or foreign insolvency law, *provided* that the same shall not have been vacated, set aside or stayed within such 60-day period or (d) the entry against it of a final and non-appealable order for relief under any bankruptcy, insolvency or similar law now or hereinafter in effect.

(e) “Board of Directors” means the Board of Directors of the Company.

(f) “CMBS Guaranty Agreements” means both (i) the Environmental Indemnity Agreement, dated as of March 30, 2017, among iStar, certain Subsidiaries of the Company and Barclays Bank PLC, JPMorgan Chase Bank, National Association and Bank of America, N.A. and (ii) the Limited Recourse Guaranty, dated as of March 30, 2017, among iStar, Barclays Bank PLC, JPMorgan Chase Bank, National Association and Bank of America, N.A.

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

1

---

(h) “Combined Property Value” means the combined value of the land, buildings and improvements relating to a commercial property, as if there were no GNL on the land at the property, as such value is determined by the Manager, on behalf of the Company, using one or more valuation methodologies that the Manager considers appropriate.

(i) “Company” shall have the meaning set forth in the introductory paragraph of this Agreement.

(j) “Company Account” shall have the meaning set forth in Section 5 of this Agreement.

(k) “Company Common Stock” means the common stock, \$0.01 par value per share, of the Company.

(l) “Company Indemnified Party” shall have the meaning set forth in Section 12(b) of this Agreement.

(m) “Effective Termination Date” shall have the meaning set forth in Section 14(a) of this Agreement.

(n) “Excess Funds” shall have the meaning set forth in Section 2(j) of this Agreement.

(o) “Exchange Act” means the Securities Exchange Act of 1934, as amended.

(p) “Exclusivity and Expense Reimbursement Agreement” means the Exclusivity and Expense Reimbursement Agreement entered into between iStar and the Company on the date hereof, as amended from time to time.

(q) “Expenses” shall have the meaning set forth in Section 10 of this Agreement.

(r) “GAAP” means generally accepted accounting principles, as applied in the United States.

(s) “GNL” means a ground net lease and any other lease that the Manager, on behalf of the Company, determines has the characteristics of a ground net lease, including length of lease term, value to Combined Property Value, periodic rent escalations or percentage rent participations and triple net terms.



(t) “Governing Instruments” means, with regard to any entity, the articles of incorporation and bylaws in the case of a corporation, certificate of limited partnership (if applicable) and the partnership agreement in the case of a general or limited partnership, the articles of formation and the operating or limited liability company agreement in the case of a limited liability company, the trust instrument in the case of a trust, or similar governing documents, in each case as amended from time to time.

(u) “Indemnitee” shall have the meaning set forth in Section 12(b) of this Agreement.

(v) “Indemnitor” shall have the meaning set forth in Section 12(c) of this Agreement.

2

---

(w) “Independent Directors” means the members of the Board of Directors who are not officers, personnel or employees of the Manager or any Person directly or indirectly controlling or controlled by the Manager, and who are otherwise “independent” in accordance with the Company’s Governing Instruments and, if applicable, the rules of any national securities exchange on which the Company Common Stock is listed.

(x) “Initial Term” shall have the meaning set forth in Section 14 of this Agreement.

(y) “Initial Public Offering” means the initial public offering of Company Common Stock.

(z) “Investment Committee” means the Manager’s investment committee that will oversee, advise and consult with respect to the Company’s investment strategy, acquisition and origination of Assets, sourcing, financing and leveraging strategies.

(aa) “Investment Company Act” means the Investment Company Act of 1940, as amended.

(bb) “iStar” means iStar Inc., a Maryland corporation, together with its subsidiaries.

(cc) “LIBOR” means London Interbank Offered Rate.

(dd) “Management Fee” means a per annum management fee equal to the sum of 1.0% of the Company’s Total Equity up to \$2.5 billion, and 0.75% of the Company’s Total Equity in excess of \$2.5 billion, calculated and payable quarterly in arrears.

(ee) “Management Fee Shares” means shares of Company Common Stock issued by the Company and delivered to the Manager as payment for the Management Fee.

(ff) “Manager” shall have the meaning set forth in the introductory paragraph of this Agreement.

(gg) “Manager Indemnified Party” shall have the meaning set forth in Section 12(a) of this Agreement.

(hh) “Market Disruption Event” means the occurrence or existence for more than one half-hour period in the aggregate on any Trading Day for the Company Common Stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the New York Stock Exchange or otherwise) in the Company Common Stock or in any options, contracts or future contracts relating to the Company Common Stock, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on such day.

(ii) “NYSE” means the New York Stock Exchange.

(jj) “Operating Partnership” shall have the meaning set forth in the introductory paragraph of this Agreement.

(kk) “OP Units” means units of partnership interest of the Operating Partnership.

(ll) “Person” means any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any federal, state, county or municipal

3

---

government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

(mm) “Portfolio Management Services” shall have the meaning set forth in Section 2(c) of this Agreement.

(nn) “REIT” means a “real estate investment trust,” as defined under the Code.

(oo) “Renewal Term” shall have the meaning set forth in Section 14(a) of this Agreement.

(pp) “Restricted Period” shall have the meaning set forth in Section 9 of this Agreement.

(qq) “Securities Act” means the Securities Act of 1933, as amended.

(rr) “Subsidiary” means any subsidiary of the Company; any partnership, the general partner of which is the Company or any subsidiary of the Company; any limited liability company, the managing member of which is the Company or any subsidiary of the Company; and any corporation or other entity of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by the Company or any subsidiary of the Company.

(ss) “Termination Notice” shall have the meaning set forth in Section 14(a) of this Agreement.

(tt) “Total Equity” means:

(i) the sum of the net cash proceeds and the value of non-cash consideration from all issuances of the Company’s equity securities since inception, including OP units and shares of Company Common Stock issued to the Manager under this Agreement (calculated on a daily weighted average basis), less

(ii) any amount that the Company pays for repurchases of its common stock and common OP Units since inception, as adjusted to exclude

(iii) one-time events pursuant to changes in GAAP and certain non-cash items after discussions between the Manager and the Independent Directors and approved by a majority of the Independent Directors.

(uu) “Trading Day” means a day on which (i) there is no Market Disruption Event and (ii) trading in securities generally occurs on the New York Stock Exchange or, if the Company Common Stock is not then listed on the New York Stock Exchange, on the principal other United States national or regional securities exchange on which the Company Common Stock is then listed or, if the Company Common Stock is not then listed on a United States national or regional securities exchange, in the principal other market on which the Company Common Stock is then traded. If the Company Common Stock (or other security for which a Daily VWAP must be determined) is not so listed or quoted, “Trading Day” means a day on which banks are open for business in New York City.

(vv) “Treasury Regulations” means the regulations promulgated under the Code as amended from time to time.

4

---

(ww) “VWAP Amount” means, for purposes of determining the number of shares of Company Common Stock payable to the Manager in respect of the Management Fee for any particular quarter (or portion thereof), the volume-weighted average price of a share of Company Common Stock for each of the Trading Days during such quarter (or portion thereof), as displayed under the heading “Bloomberg VWAP” on Bloomberg page “SFTY <equity> AQR” (or any successor thereto) in respect of the period from the scheduled open of the primary exchange or market on which the Company Common Stock is listed or traded to the scheduled close of such exchange or market on such Trading Day (or if such volume-weighted average price is unavailable, the market value per share of Company Common Stock on such Trading Day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by the Company).

## Section 2. Appointment and Duties of the Manager.

(a) The Company and the Operating Partnership hereby appoint the Manager to manage the Assets subject to the terms and conditions set forth in this Agreement, and the Manager hereby agrees to perform each of the duties set forth herein. The appointment of the Manager shall be exclusive to the Manager subject to the terms and conditions set forth in this Agreement.

(b) The parties acknowledge that (i) the Manager is a special purpose vehicle formed for the principal purpose of serving as the investment manager of the Company and its Subsidiaries and the Assets; (ii) the Manager is an affiliate of iStar; (iii) the Manager performs its services for the Company and its Subsidiaries through the personnel and facilities of iStar; and (iv) the Manager has no, and will have no, employees or other persons acting on its behalf other than (A) officers, partners and employees of iStar, or (B) other persons who are subject to the supervision and control of iStar.

(c) The Manager, in its capacity as manager of the Assets and the day to day operations of the Company and the Subsidiaries, at all times will be subject to the supervision of the Board of Directors and will have only such functions and authority as the Company may delegate to it including, without limitation:

- i. serving as the Company’s and the Subsidiaries’ consultant with respect to the periodic review of the investment criteria and other parameters for acquisitions and originations of Assets, financing activities and operations, any material modification to which shall be subject to the approval of a majority of the Independent Directors, and subject to other policies for approval by the Board of Directors;
- ii. forming the Investment Committee;
- iii. investigating, analyzing and selecting possible investment opportunities and acquiring, originating, financing, retaining, selling, restructuring or disposing of Assets;
- iv. advising on the terms of the Company’s and the Subsidiaries’ GNL and other investments and transactions;
- v. representing and making recommendations to the Company in connection with the purchase, origination and finance of, and commitment to purchase, originate and finance, assets consistent with the Company’s investment guidelines, and the sale and commitment to sell assets;
- vi. with respect to prospective purchases, originations, leases, sales or exchanges of Assets, conducting negotiations on behalf of the Company and the Subsidiaries with sellers, tenants,

5

---

developers, construction agents, purchasers and brokers and, if applicable, their respective agents and representatives;

- vii. advising the Company on and, negotiating and entering into, on behalf of the Company and the Subsidiaries, credit facilities (including term loans and revolving facilities), mortgage indebtedness, financing vehicles, agreements relating to borrowings under programs established by governmental agencies or programs, commercial paper programs, interest rate swap and cap agreements and other hedging instruments, and all other agreements and engagements required for the Company and the Subsidiaries to conduct their business;

- viii. establishing and implementing networks for sourcing investments, conducting underwriting of tenants, markets and real properties and the execution of transactions;
- ix. overseeing tenants;
- x. providing the Company with Portfolio Management Services;
- xi. engaging and supervising, on behalf of the Company and the Subsidiaries and at the Company's expense, independent contractors which provide construction consulting, real estate brokerage, investment banking, mortgage brokerage, securities brokerage, other real estate and financial services, due diligence services, underwriting review services, legal and accounting services, and all other services as may be required relating to Assets;
- xii. advising the Company on, preparing, negotiating and entering into, on behalf of the Company, applications and agreements relating to governmental programs;
- xiii. coordinating and managing operations of any co-investment interests or joint venture held by the Company and the Subsidiaries and conducting all matters with the co-investment partners or joint ventures;
- xiv. arranging marketing materials, advertising, industry group activities (such as conference participations and industry organization memberships) and other promotional efforts designed to promote the Company's business;
- xv. providing executive and administrative personnel, office space and office services required in rendering services to the Company and the Subsidiaries;
- xvi. administering the day-to-day operations and performing and supervising the performance of such other administrative functions necessary to the management of the Company and the Subsidiaries as may be agreed upon by the Manager and the Board of Directors, including, without limitation, the collection of rents and interest payments, the payment of the debts and obligations of the Company and the Subsidiaries and maintenance of appropriate computer services to perform such administrative functions;
- xvii. communicating on behalf of the Company and the Subsidiaries with the holders of any of their equity or debt securities and lenders as required to satisfy the reporting and other requirements of any governmental bodies or agencies or trading markets and to maintain effective relations with such holders and lenders;
- xviii. counseling the Company in connection with policy decisions to be made by the Board of Directors;

- xix. evaluating and recommending to the Board of Directors hedging strategies and engaging in hedging activities on behalf of the Company and the Subsidiaries, consistent with such strategies as so modified from time to time, and with the Company's qualification as a REIT;
- xx. counseling the Company regarding its qualification and maintenance of its qualification as a REIT and monitoring compliance with the various REIT qualification tests and other rules set out in the Code and Treasury Regulations thereunder and using commercially reasonable efforts to cause the Company to qualify and maintain its qualification as a REIT;
- xxi. counseling the Company and the Subsidiaries regarding the maintenance of their exemptions from the status of an investment company required to register under the Investment Company Act, monitoring compliance with the requirements for maintaining such exemptions and using commercially reasonable efforts to cause them to maintain such exemptions from such status;
- xxii. furnishing reports and statistical and economic research to the Company and the Subsidiaries regarding their activities and services performed for the Company and the Subsidiaries by the Manager;
- xxiii. monitoring the performance of the Assets and providing periodic reports with respect thereto to the Board of Directors, including comparative information with respect to such operating performance and budgeted or projected operating results;
- xxiv. investing and reinvesting any moneys and securities of the Company and the Subsidiaries (including investing in short-term Assets pending the acquisition or origination of other Assets, payment of fees, costs and expenses, or payments of dividends or distributions to stockholders and partners of the Company and the Subsidiaries) and advising the Company and the Subsidiaries as to their capital structure and capital raising;
- xxv. assisting the Company and the Subsidiaries in retaining qualified accountants and legal counsel, as applicable, to assist in developing appropriate accounting systems and procedures, internal controls and other compliance procedures and testing systems with respect to financial reporting obligations and compliance with the provisions of the Code applicable to REITs and to conduct quarterly compliance reviews with respect thereto;
- xxvi. assisting the Company and the Subsidiaries to qualify to do business in all applicable jurisdictions and to obtain and maintain all appropriate licenses;
- xxvii. assisting the Company and the Subsidiaries in complying with all regulatory requirements applicable to them in respect of their business activities, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports and documents, if any, required under the Exchange Act, the Securities Act, or by stock exchange requirements;
- xxviii. assisting the Company and the Subsidiaries in taking all necessary action to enable them to make required tax filings and reports, including soliciting stockholders for required information to the extent required by the provisions of the Code applicable to REITs;

- xxix. handling and resolving all claims, disputes or controversies (including all litigation, arbitration, settlement or other proceedings or negotiations) on the Company's and/or the Subsidiaries' behalf in which the Company and/or the Subsidiaries may be involved or to

which they may be subject arising out of their day-to-day operations (other than with the Manager or its Affiliates), subject to such limitations or parameters as may be imposed from time to time by the Board of Directors;

- xxx. using commercially reasonable efforts to cause expenses incurred by the Company and the Subsidiaries or on their behalf to be commercially reasonable or commercially customary and within any budgeted parameters or expense guidelines set by the Board of Directors from time to time;
- xxxi. advising the Company and the Subsidiaries with respect to and structuring long term financing vehicles for the Assets, and offering and selling securities publicly or privately in connection with any such financing;
- xxxii. serving as the Company's and the Subsidiaries' consultant with respect to decisions regarding any of their financings, hedging activities or borrowings undertaken by the Company and the Subsidiaries including (1) assisting the Company and the Subsidiaries in developing criteria for debt and equity financing that are specifically tailored to their investment objectives, and (2) advising the Company and the Subsidiaries with respect to obtaining appropriate financing for their investments;
- xxxiii. performing such other services as may be required from time to time for management and other activities relating to the Assets and business of the Company and the Subsidiaries as the Board of Directors shall reasonably request or the Manager shall deem appropriate under the particular circumstances; and
- xxxiv. using commercially reasonable efforts to cause the Company and the Subsidiaries to comply with all applicable laws.

Without limiting the foregoing, the Manager will perform portfolio management services (the "Portfolio Management Services") on behalf of the Company and the Subsidiaries with respect to the Assets. Such services will include, but not be limited to, consulting with the Company and the Subsidiaries on the underwriting, purchase, origination and sale of, and other opportunities in connection with, the Company's portfolio of Assets; the collection of information and the submission of reports pertaining to the Company's Assets, tenants, market conditions, interest rates and general economic conditions; periodic review and evaluation of the performance of the Company's portfolio of Assets; acting as liaison between the Company and the Subsidiaries and real estate brokerage, tenant, banking, mortgage banking, investment banking and other parties with respect to the purchase, origination, financing and disposition of Assets; and other customary functions related to portfolio management.

(d) For the period and on the terms and conditions set forth in this Agreement, the Company and each of the Subsidiaries hereby constitutes, appoints and authorizes the Manager as its true and lawful agent and attorney-in-fact, in its name, place and stead, to negotiate, execute, deliver and enter into such leases, purchase agreements, financing agreements, organizational documents, guaranties, joint venture agreements, brokerage agreements, hedging agreements, custodial agreements and such other agreements, instruments and authorizations on their behalf, on such terms and conditions as the Manager, acting in its sole and absolute discretion, deems necessary or appropriate. This power of attorney is deemed to be coupled with an interest.

(e) The Manager may enter into agreements with other parties, including its Affiliates, for the purpose of engaging one or more parties for and on behalf, and at the sole cost and expense, of the Company and the Subsidiaries to provide services to the Company and the Subsidiaries

(including, without limitation, Portfolio Management Services) pursuant to agreement(s) with terms which are then customary for agreements regarding the provision of services to companies that have assets similar in type, quality and value to the Assets of the Company and the Subsidiaries; *provided* that any such agreements entered into with Affiliates of the Manager shall be on terms no more favorable to such Affiliate than would be obtained from a third party on an arm's-length basis and shall be subject to approval by a majority of the Independent Directors. Except as otherwise agreed by the Company, the Manager shall remain personally liable for the performance of such services by its Affiliates.

(f) In addition, to the extent that the Manager deems necessary or advisable, the Manager may, from time to time, propose to retain one or more additional entities for the provision of sub-advisory services to the Manager in order to enable the Manager to provide the services to the Company and the Subsidiaries specified by this Agreement; *provided* that any such agreement (i) shall be on terms and conditions substantially identical to the terms and conditions of this Agreement or otherwise not adverse to the Company and the Subsidiaries, and (ii) shall be subject to approval by a majority of the Independent Directors of the Company.

(g) The Manager may retain, for and on behalf and at the sole cost and expense of the Company and the Subsidiaries, such services of accountants, legal counsel, appraisers, insurers, brokers, transfer agents, registrars, developers, investment banks, valuation firms, financial advisors, due diligence firms, underwriting review firms, construction consulting firms, banks and other lenders and others as the Manager deems necessary or advisable in connection with the management and operations of the Company and the Subsidiaries. Notwithstanding anything contained herein to the contrary, the Manager shall have the right to cause any such services to be rendered by its personnel or Affiliates. Except as otherwise provided herein, the Company and the Subsidiaries shall pay or reimburse the Manager or its Affiliates performing such services for the cost thereof; *provided* that, subject to Section 10 of this Agreement, such costs and reimbursements are no greater than those which would be payable to outside professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm's-length basis.

(h) The Manager may effect transactions by or through the agency of another Person through an arrangement under which that party or its Affiliates will from time to time provide to or procure for the Manager and/or its Affiliates goods, services or other benefits, the nature of which is such that provision can reasonably be expected to benefit the Company and the Subsidiaries as a whole and may contribute to an improvement in the performance

of the Company and the Subsidiaries or the Manager or its Affiliates in providing services to the Company and the Subsidiaries on terms that no direct payment is made but instead the Manager and/or its Affiliates undertake to place business with that party.

(i) The Manager shall prepare, or cause to be prepared at the sole cost and expense of the Company and the Subsidiaries:

(i) regular reports for the Board of Directors to enable the Board of Directors to review the Company's and the Subsidiaries' investments, financing arrangements, performance, compliance with the Governing Instruments and compliance with other policies approved by the Board of Directors from time to time;

(ii) with respect to any Asset, such reports and other information as may be reasonably requested by the Company;

(iii) any materials required to be filed with any governmental body or agency; and

9

---

(iv) such reports and other materials including, without limitation, an annual audit of the Company's and the Subsidiaries' books of account by a nationally recognized registered independent public accounting firm.

(j) Notwithstanding anything contained in this Agreement to the contrary, except to the extent that the payment of additional moneys is proven by the Company to have been required as a direct result of the Manager's acts or omissions which result in the right of the Company and the Subsidiaries to terminate this Agreement pursuant to Section 16 of this Agreement, the Manager shall not be required to expend money ("Excess Funds") in connection with any expenses that are required to be paid for or reimbursed by the Company and the Subsidiaries pursuant to Section 10 in excess of that contained in any applicable Company Account (as herein defined) or otherwise made available by the Company and the Subsidiaries to be expended by the Manager hereunder. Failure of the Manager to expend Excess Funds out-of-pocket shall not give rise or be a contributing factor to the right of the Company and the Subsidiaries under Section 14(a) of this Agreement to terminate this Agreement due to the Manager's unsatisfactory performance.

(k) In performing its duties under this Section 2, the Manager shall be entitled to rely reasonably on qualified experts and professionals (including, without limitation, accountants, legal counsel and other service providers) hired by the Manager at the Company's and the Subsidiaries' sole cost and expense.

### Section 3. Devotion of Time; Additional Activities.

(a) The Manager and its Affiliates will provide the Company and the Subsidiaries with a management team, including a chief executive officer, a chief financial officer, a chief compliance officer and other appropriate support personnel, to provide the management services hereunder. None of the Manager or its Affiliates shall be obligated to dedicate any of its officers or employees exclusively to the Company, nor is the Manager or any of its Affiliates or any of their respective personnel obligated to dedicate any specific portion of its or their time to the Company.

(b) The Manager acknowledges that the Company and iStar have entered into the Exclusivity and Expense Reimbursement Agreement. Except as set forth in the Exclusivity and Expense Reimbursement Agreement, nothing in this Agreement shall (i) prevent the Manager or any of its Affiliates, officers, directors, employees or personnel, from engaging in other businesses or from rendering services of any kind to any other Person, including, without limitation, investing in, or rendering advisory services to others investing in, any type of business (including, without limitation, acquisitions of assets that meet the principal objectives of the Company), whether or not the objectives or policies of any such other Person or entity are similar to those of the Company or (ii) in any way bind or restrict the Manager or any of its Affiliates, officers, directors, employees or personnel from buying, selling or trading any securities or assets for their own accounts or for the account of others for whom the Manager or any of its Affiliates, officers, directors, employees or personnel may be acting. When making decisions where a conflict of interest may arise, the Manager will use its reasonable best efforts to allocate acquisition and financing opportunities in a fair and equitable manner over time as between the Company and the Subsidiaries and the Manager's other clients, subject to the Exclusivity and Expense Reimbursement Agreement.

(c) Managers, partners, officers, employees, personnel and agents of the Manager or Affiliates of the Manager may serve as directors, officers, employees, personnel, agents, nominees or signatories for the Company and/or any Subsidiary, to the extent permitted by their Governing Instruments or by any resolutions duly adopted by the Board of Directors pursuant to the Company's Governing Instruments. When executing documents or otherwise acting in such capacities for the

10

---

Company or the Subsidiaries, such persons shall use their respective titles in the Company or the Subsidiaries.

Section 4. Agency. The Manager shall act as agent of the Company and the Subsidiaries in making, acquiring, originating, leasing, financing and disposing of Assets, disbursing and collecting the funds of the Company and the Subsidiaries, paying the debts and fulfilling the obligations of the Company and the Subsidiaries, supervising the performance of professionals engaged by or on behalf of the Company and the Subsidiaries and handling, prosecuting and settling any claims of or against the Company and the Subsidiaries, the Board of Directors, holders of the Company's securities or representatives or property of the Company and the Subsidiaries.

Section 5. Bank Accounts. At the direction of the Board of Directors, the Manager may establish and maintain one or more bank accounts in the name of the Company or any Subsidiary (any such account, a "Company Account"), and may collect and deposit funds into any such Company Account or Company Accounts, and disburse funds from any such Company Account or Company Accounts, under such terms and conditions as the Board of Directors may approve; and the Manager shall from time to time render appropriate accountings of such collections and payments to the Board of Directors and, upon request, to the auditors of the Company or any Subsidiary.

Section 6. Records; Confidentiality. The Manager shall maintain appropriate books of accounts and records relating to services performed under this Agreement, and such books of account and records shall be accessible for inspection by representatives of the Company or any Subsidiary at any time during normal business hours upon reasonable advance notice. The Manager shall keep confidential any and all information obtained in connection with

the services rendered under this Agreement and shall not disclose any such information (or use the same except in furtherance of its duties under this Agreement) to unaffiliated third parties except (i) with the prior written consent of a majority of the Independent Directors; (ii) to legal counsel, accountants and other professional advisors; (iii) to appraisers, financing sources and others in the ordinary course of the Company's business; (iv) to governmental officials having jurisdiction over the Company or any Subsidiary; (v) in connection with any governmental or regulatory filings of the Company or any Subsidiary or disclosure or presentations to the Company's stockholders or prospective stockholders; (vi) as required by law or legal process to which the Manager or any Person to whom disclosure is permitted hereunder is a party; or (vii) to the extent such information is otherwise publicly available. The foregoing shall not apply to information which has previously become publicly available through the actions of a Person other than the Manager not resulting from the Manager's violation of this Section 6. Clauses (v) and (vi) of this Section 6 shall survive the expiration or earlier termination of this Agreement for a period of one year.

Section 7. Obligations of Manager; Restrictions.

(a) The Manager shall require each seller or transferor of assets or lessee or guarantor to the Company and the Subsidiaries to make such representations and warranties as may, in the judgment of the Manager, be customary, necessary and/or appropriate. In addition, the Manager shall take such other action as it deems necessary or appropriate with regard to the protection of the Assets.

(b) The Manager shall refrain from any action that, in its sole judgment made in good faith, (i) would adversely and materially affect the status of the Company as a REIT under the Code, (ii) would adversely and materially affect the Company's or any Subsidiary's status as an entity intended to be exempted or excluded from investment company status under the Investment Company Act or (iii) would violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Company or any Subsidiary or that would otherwise not be permitted by the Company's Governing Instruments. If the Manager is ordered to take any such action by the Board of Directors, the

11

---

Manager shall promptly notify the Board of Directors of the Manager's judgment that such action would adversely and materially affect such status or violate any such law, rule or regulation or the Governing Instruments. Notwithstanding the foregoing, the Manager, its directors, members, officers, stockholders, managers, personnel, employees and any Person controlling or controlled by the Manager and any person providing sub-advisory services to the Manager shall not be liable to the Company or any Subsidiary, the Board of Directors, or the Company's or any Subsidiary's stockholders, members or partners, for any act or omission by the Manager, its directors, officers, stockholders, personnel or employees except as provided in Section 12 of this Agreement.

(c) The Board of Directors shall periodically review the Company's portfolio of Assets but will not review each proposed Asset, except as otherwise provided herein. If a majority of the Independent Directors determines in their periodic review of transactions that a particular transaction does not comply with the Company's investment criteria, then a majority of the Independent Directors will consider what corrective action, if any, can be taken. The Manager shall be permitted to rely upon the direction of the Secretary of the Company to evidence the approval of the Board of Directors or the Independent Directors with respect to a proposed acquisition.

(d) Neither the Company nor the Subsidiaries shall acquire any security issued by any entity managed by the Manager or any Affiliate thereof, or purchase or sell any Asset from or to any entity managed by the Manager or its Affiliates, unless (i) the transaction is approved in advance by a majority of the Independent Directors; and (ii) the transaction is made in accordance with applicable laws.

(e) In the event that the Company or any Subsidiary invests in, acquires or sells assets to any joint ventures with iStar or its Affiliates, or if the Company or any Subsidiary purchases assets from, sells assets to, arranges financing from, or provides financing to, iStar or any of its Affiliates, any such transactions shall require the approval of the Independent Directors.

(f) The Manager shall at all times during the term of this Agreement maintain "errors and omissions" insurance coverage and other insurance coverage which is customarily carried by asset and investment managers performing functions similar to those of the Manager under this Agreement with respect to assets similar to the assets of the Company and the Subsidiaries, in an amount which is comparable to that customarily maintained by other managers or servicers of similar assets.

Section 8. Compensation.

(a) During the Initial Term, the Company shall have no obligation to pay the Manager any Management Fee. Beginning with the quarter in which the first Renewal Term commences, the Company will pay the Manager the Management Fee, with such initial payment pro-rated based on the number of days during such quarter that this Agreement was in effect. The Management Fee shall be paid solely in a number of shares of Company Common Stock equal to the quotient obtained by dividing (1) the dollar amount of the Management Fee payable in respect of a quarter (or portion thereof) by (2) the greater of (x) the VWAP Amount and (y) \$20.00.

(b) The Manager shall compute each installment of the Management Fee within 45 days after the end of the fiscal quarter with respect to which such installment is payable. A copy of the computations made by the Manager to calculate such installment shall thereafter, for informational purposes only and subject in any event to Section 14(a) of this Agreement, promptly be delivered to the Board of Directors. Delivery of the shares of Company Common Stock payable in respect of such installment of the Management Fee shall be due no later than five business days after the date of delivery of such computations to the Board of Directors.

12

---

Section 9. Restriction on Sale of Management Fee Shares. The Manager shall not, directly or indirectly, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise dispose of any Management Fee Shares during the two year period from and including the date such Management Fee Shares were issued (the "Restricted Period"). Notwithstanding the foregoing, the Manager may transfer Management Fee Shares during the Restricted Period applicable to such Management Fee Shares as a distribution to the members of the Manager and to any affiliate of the Manager or iStar, provided that each such transferee agrees to be bound by the transfer restrictions set forth in this Section 9 for any period remaining in the Restricted Period applicable to the relevant Management Fee Shares, except that any Management Fee

Shares held by iStar may be distributed by iStar to its stockholders during the applicable Restricted Period and such Management Fee Shares shall not be subject to the restrictions on transfer contained in this Section 9.

Section 10. Expenses of the Company. The Company shall pay all of its expenses and shall reimburse the Manager for documented expenses of the Manager incurred on its behalf (collectively, the “Expenses”) except those expenses that are specifically the responsibility of the Manager as set forth herein. Expenses include all costs and expenses which are expressly designated elsewhere in this Agreement as the Company’s, together with the following:

- (i) expenses in connection with the transaction costs incident to the acquisition, origination, leasing, disposition and financing of Assets;
- (ii) costs of legal, tax, accounting, consulting, auditing, administrative and other similar services rendered for the Company and the Subsidiaries by providers retained by the Manager;
- (iii) the compensation and expenses of the Company’s directors and the allocable share of the cost of directors’ and officers’ liability insurance;
- (iv) costs associated with the establishment and maintenance of any of the Company’s credit facilities, mortgage indebtedness or other indebtedness of the Company (including commitment fees, accounting fees, legal fees, closing and other similar costs) or any of the Company’s or any Subsidiary’s securities offerings (including the Initial Public Offering, exclusive of the fees iStar has agreed to pay pursuant to the Exclusivity and Expense Reimbursement Agreement);
- (v) expenses connected with communications to lenders and holders of the Company’s or any Subsidiary’s securities and other bookkeeping and clerical work necessary in maintaining relations with lenders and holders of such securities and in complying with the continuous reporting and other requirements of governmental bodies or agencies, including, without limitation, all costs of preparing and filing required reports with the Securities and Exchange Commission, the costs payable by the Company to any transfer agent and registrar in connection with the listing and/or trading of the Company’s stock on any exchange, the fees payable by the Company to any such exchange in connection with its listing, and the costs of preparing, printing and mailing the Company’s annual report to its stockholders and proxy materials with respect to any meeting of the Company’s stockholders;

13

---

- (vi) costs associated with any computer software or hardware, electronic equipment or purchased information technology services from third-party vendors that is used for the Company and the Subsidiaries;
- (vii) expenses incurred by managers, officers, personnel and agents of the Manager for travel on the Company’s behalf and other out-of-pocket expenses incurred by managers, officers, personnel and agents of the Manager in connection with the purchase, origination, financing, refinancing, sale or other disposition of an Asset or establishment and maintenance of any of the Company’s credit facilities, financing vehicles and borrowings under programs established by the U.S. government or any of the Company’s or any of the Subsidiary’s securities offerings (including the Initial Public Offering, subject to the Exclusivity and Expense Reimbursement Agreement);
- (viii) costs and expenses incurred with respect to market information systems and publications, pricing and valuation services, research publications, and materials and settlement, clearing and custodial fees and expenses;
- (ix) compensation and expenses of the Company’s custodian and transfer agent, if any;
- (x) the costs of maintaining compliance with all federal, state and local rules and regulations or any other regulatory agency;
- (xi) all taxes and license fees;
- (xii) all insurance costs incurred in connection with the operation of the Company’s business;
- (xiii) all other costs and expenses relating to the business operations of the Company and the Subsidiaries, including, without limitation, the costs and expenses of acquiring, owning, protecting, maintaining, developing and disposing of Assets, including appraisal, reporting, audit and legal fees;
- (xiv) expenses relating to any office(s) or office facilities, including, but not limited to, disaster backup recovery sites and facilities, maintained for the Company and the Subsidiaries or Assets separate from the office or offices of the Manager;
- (xv) expenses connected with the payments of interest, dividends or distributions in cash or any other form authorized or caused to be made by the Board of Directors to or on account of lenders or holders of the Company’s or any Subsidiary’s securities, including, without limitation, in connection with any dividend reinvestment plan;
- (xvi) any judgment or settlement of pending or threatened proceedings (whether civil, criminal or otherwise), including any costs or expenses in connection therewith, against the Company or any Subsidiary, or against any trustee, director or officer of the Company or of any Subsidiary in

14

---

his capacity as such for which the Company or any Subsidiary is required to indemnify such trustee, director or officer by any court or governmental agency;

- (xvii) all costs and expenses relating to the development and management of the Company's website;
- (xviii) the allocable share of expenses under a universal insurance policy covering the Manager, iStar or its affiliates in connection with obtaining and maintaining "errors and omissions" insurance coverage and other insurance coverage which is customarily carried by property, asset and investment managers performing functions similar to those of our manager in an amount which is comparable to that customarily maintained by other managers or servicers of similar assets; and
- (xix) all other expenses actually incurred by the Manager (except as described below) which are reasonably necessary for the performance by the Manager of its duties and functions under this Agreement.

The Company shall have no obligation to reimburse the Manager or its Affiliates for the salaries and other compensation of the Manager's investment professionals who provide services to the Company under this Agreement except that, beginning after the first anniversary of this Agreement, the Company shall reimburse the Manager or its Affiliates, as applicable, for the Company's allocable share of the compensation, including without limitation, annual base salary, bonus, any related withholding taxes and employee benefits, paid to corporate finance, tax, accounting, internal audit, legal, risk management, operations, compliance and other non-investment personnel of the Manager and its Affiliates who spend all or a portion of their time managing the Company's affairs. The Company's share of such costs shall be based upon the percentage of time devoted by such personnel of the Manager or its Affiliates to the Company's and the Subsidiaries' affairs. The Manager shall provide the Company with such written detail as the Company may reasonably request to support the determination of the Company's share of such costs.

In addition, the Company, at the option of the Manager, shall be required to pay the Company's *pro rata* portion of rent, telephone, utilities, office furniture, equipment, machinery and other office, internal and overhead expenses attributable to the personnel of the Manager and its Affiliates required for the operations of the Company and the Subsidiaries. These expenses will be allocated to the Company based upon the percentage of time devoted by such personnel of the Manager or its Affiliates to the Company's and the Subsidiaries' affairs as calculated at each fiscal quarter end. The Manager and the Company may modify this allocation methodology, subject to the approval of a majority of the Independent Directors'.

The Manager may, at its option, elect not to seek reimbursement for certain expenses during a given quarterly period, which determination shall not be deemed to construe a waiver of reimbursement for similar expenses in future periods.

The provisions of this Section 10 shall survive the expiration or earlier termination of this Agreement to the extent such expenses have previously been incurred or are incurred in connection with such expiration or termination.

Section 11. Calculations of Expenses. The Manager shall prepare a statement documenting the Expenses of the Company and the Subsidiaries and the Expenses incurred by the Manager on behalf of the Company and the Subsidiaries during each fiscal quarter, and shall deliver such statement to the

Company within 45 days after the end of each fiscal quarter. Expenses incurred by the Manager on behalf of the Company and the Subsidiaries, including expenses allocated to the Company pursuant to Section 10 above, shall be reimbursed by the Company to the Manager on the fifth business day immediately following the date of delivery of such statement; *provided, however*, that such reimbursements may be offset by the Manager against amounts due to the Company and the Subsidiaries. The provisions of this Section 11 shall survive the expiration or earlier termination of this Agreement.

Section 12. Limits of Manager Responsibility; Indemnification.

(a) The Manager assumes no responsibility under this Agreement other than to render the services called for under this Agreement and shall not be responsible for any action of the Board of Directors in following or declining to follow any advice or recommendations of the Manager, including as set forth in Section 7(b) of this Agreement. The Manager, its officers, stockholders, members, managers, directors, employees, consultants, personnel, any Person controlling or controlled by the Manager and any of such Person's officers, stockholders, members, managers, directors, employees, consultants and personnel, and any Person providing sub-advisory services to the Manager (each a "Manager Indemnified Party") will not be liable to the company or any Subsidiary, to the Board of Directors, or the Company's or any Subsidiary's stockholders, members or partners for any acts or omissions by any such Person (including, without limitation, trade errors that may result from ordinary negligence, such as errors in the investment decision making process or in the trade process), pursuant to or in accordance with this Agreement, except by reason of acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard of the Manager's duties under this Agreement, as determined by a final non-appealable order of a court of competent jurisdiction. The Company shall, to the full extent lawful, reimburse, indemnify and hold each Manager Indemnified Party harmless of and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including attorney's fees) in respect of or arising from any acts or omissions of such Manager Indemnified Party made in good faith in the performance of the Manager's duties under this Agreement and not constituting such Manager Indemnified Party's bad faith, willful misconduct, gross negligence or reckless disregard of the Manager's duties under this Agreement.

(b) The Manager shall, to the full extent lawful, reimburse, indemnify and hold the Company (or any Subsidiary), its stockholders, directors and officers and each other Person, if any, controlling the Company (each, a "Company Indemnified Party" and together with a Manager Indemnified Party, the "Indemnitee"), harmless of and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including attorneys' fees) in respect of or arising from the Manager's bad faith, willful misconduct, gross negligence or reckless disregard of its duties under this Agreement or any claims by the Manager's personnel relating to the terms and conditions of their employment by the Manager.

(c) The Indemnitee will promptly notify the party against whom indemnity is claimed (the "Indemnitor") of any claim for which it seeks indemnification; *provided, however*, that the failure to so notify the Indemnitor will not relieve the Indemnitor from any liability which it may have hereunder, except to the extent such failure actually prejudices the Indemnitor. The Indemnitor shall have the right to assume the defense and settlement of such claim; *provided*, that the Indemnitor notifies the Indemnitee of its election to assume such defense and settlement within 30 days after the Indemnitee gives the Indemnitor notice of the claim. In such case, the Indemnitee will not settle or compromise such claim, and the Indemnitor will not be liable for any such settlement made without its prior written consent. If the Indemnitor is entitled to, and does, assume such defense by delivering the aforementioned notice to the Indemnitee, the Indemnitee will (i) have the right to approve the Indemnitor's counsel (which approval will not be unreasonably withheld, delayed or conditioned), (ii) be obligated to cooperate in furnishing evidence and testimony and in any other manner in which the Indemnitor may reasonably



request and (iii) be entitled to participate in (but not control) the defense of any such action, with its own counsel and at its own expense.

Section 13. No Joint Venture. Nothing in this Agreement shall be construed to make the Company and the Manager partners or joint venturers or impose any liability as such on either of them.

Section 14. Term; Termination.

(a) This Agreement shall be in effect until the one-year anniversary of the Effective Date (the “Initial Term”), and shall be automatically renewed for successive one-year terms on each annual anniversary of the Effective Date thereafter (a “Renewal Term”), unless this Agreement is terminated in accordance with its terms upon the affirmative vote of a majority of the Independent Directors; **provided, however**, that, notwithstanding anything in this Agreement to the contrary, no termination or non-renewal of this Agreement, for any reason or no reason, shall become effective unless and until the Company shall have caused iStar to be released and discharged from all liabilities and obligations under the CMBS Guaranty Agreements by all parties thereto, or the Company shall have caused an entity reasonably acceptable to iStar to agree to indemnify, defend and hold harmless iStar from and against any loss or liability arising under the CMBS Guaranty Agreements. iStar is made an express beneficiary of the foregoing obligations of the Company.

(b) The Company, by the affirmative vote of a majority of the Independent Directors, may elect not to renew this Agreement effective at the expiration of the Initial Term or any Renewal Term, by delivering to the Manager prior written notice (the “Termination Notice”) of the non-renewal not less than 90 days prior to the expiration of the then existing term.

(c) No later than 90 days prior to the end of the Initial Term or any Renewal Term, the Manager may deliver written notice to the Company informing it of the Manager’s election to terminate this Agreement, effective as of the end of such Initial Term or Renewal Term on the anniversary date of this Agreement next following the delivery of such notice.

(d) If this Agreement is terminated pursuant to Section 14, such termination shall be without any further liability or obligation of either party to the other, except as provided in Sections 6, 10, 11, and 17 of this Agreement. In addition, Sections 12 and 22 of this Agreement shall survive termination of this Agreement.

Section 15. Assignment.

(a) Except as set forth in Section 15(b) of this Agreement, this Agreement shall terminate automatically in the event of its assignment, in whole or in part, by the Manager, unless such assignment is consented to in writing by the Company with the approval of a majority of the Independent Directors. Any such permitted assignment shall bind the assignee under this Agreement in the same manner as the Manager is bound, and the Manager shall be liable to the Company for all errors or omissions of the assignee under any such assignment. In addition, the assignee shall execute and deliver to the Company a counterpart of this Agreement naming such assignee as Manager. This Agreement shall not be assigned by the Company without the prior written consent of the Manager, except in the case of assignment by the Company to another REIT or other organization which is a successor (by merger, consolidation, purchase of assets, or similar transaction) to the Company, in which case such successor organization shall be bound under this Agreement and by the terms of such assignment in the same manner as the Company is bound under this Agreement.

(b) Notwithstanding any provision of this Agreement, the Manager may subcontract and assign any or all of its responsibilities under Sections 2(c), 2(d) and 2(e) of this Agreement to any of its Affiliates in accordance with the terms of this Agreement applicable to any such subcontract or assignment, and the Company hereby consents to any such assignment and subcontracting. In addition, *provided* that the Manager provides prior written notice to the Company for informational purposes only, nothing contained in this Agreement shall preclude any pledge, hypothecation or other transfer of any amounts payable to the Manager under this Agreement. In addition, the Manager may assign this Agreement to any of its Affiliates without the approval of the Independent Directors, provided that, such assignment does not require the Company’s approval under applicable law.

Section 16. Termination for Cause.

(a) The Company may terminate this Agreement effective upon 30 days’ prior written notice of termination from the Board of Directors of the Company to the Manager, if (i) the Manager, its agents or its assignees materially breaches any provision of this Agreement and such breach shall continue for a period of 30 days after written notice thereof specifying such breach and requesting that the same be remedied in such 30-day period (or 60 days after written notice of such breach if the Manager takes steps to cure such breach within 30 days of the written notice), (ii) the Manager engages in any act of fraud, misappropriation of funds, or embezzlement against the Company or any Subsidiary, (iii) there is an event of any bad faith, willful misconduct, gross negligence or reckless disregard on the part of the Manager in the performance of its duties under this Agreement, (iv) there is a commencement of any proceeding relating to the Manager’s Bankruptcy or insolvency, including an order for relief in an involuntary bankruptcy case or the Manager authorizing or filing a voluntary bankruptcy petition, (v) the Manager is convicted (including a plea of *nolo contendere*) of a felony, or (vi) there is a dissolution of the Manager.

(b) The Manager may terminate this Agreement effective upon 60 days’ prior written notice of termination to the Company in the event that the Company shall default in the performance or observance of any material term, condition or covenant contained in this Agreement and such default shall continue for a period of 30 days after written notice thereof specifying such default and requesting that the same be remedied in such 30-day period (or 60 days after written notice of such breach if the Company takes steps to cure such breach within 30 days of the written notice).

(c) The Manager may terminate this Agreement in the event the Company becomes regulated as an “investment company” under the Investment Company Act, with such termination deemed to have occurred immediately prior to such event.

Section 17. Action Upon Termination. From and after the effective date of termination of this Agreement, pursuant to Sections 14 or 16 of this Agreement, the Manager shall not be entitled to compensation for further services under this Agreement, but shall be paid all compensation accruing to the date of termination. Upon such termination, the Manager shall promptly:

- (i) after deducting any accrued compensation and reimbursement for its expenses to which it is then entitled, pay over to the Company or a Subsidiary all money collected and held for the account of the Company or a Subsidiary pursuant to this Agreement;
- (ii) deliver to the Board of Directors a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting

18

---

furnished to the Board of Directors with respect to the Company or a Subsidiary; and

- (iii) deliver to the Board of Directors all property and documents of the Company or any Subsidiary then in the custody or control of the Manager, all of which are and shall be the Company's property.

Section 18. Release of Money or Other Property Upon Written Request. The Manager agrees that any money or other property of the Company or any Subsidiary held by the Manager under this Agreement shall be held by the Manager as custodian for the Company or such Subsidiary, and the Manager's records shall be appropriately and clearly marked to reflect the ownership of such money or other property by the Company or such Subsidiary. Upon the receipt by the Manager of a written request signed by a duly authorized officer of the Company requesting the Manager to release to the Company or any Subsidiary any money or other property then held by the Manager for the account of the Company or any Subsidiary under this Agreement, the Manager shall release such money or other property to the Company or any Subsidiary within a reasonable period of time, but in no event later than 30 days following such request. The Manager shall not be liable to the Company, any Subsidiary, the Independent Directors, or the Company's or a Subsidiary's stockholders or partners for any acts performed or omissions to act by the Company or any Subsidiary in connection with the money or other property released to the Company or any Subsidiary in accordance with the second sentence of this Section 18. The Company and any Subsidiary shall indemnify the Manager and its officers, directors, personnel and managers against any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever, which arise in connection with the Manager's release of such money or other property to the Company or any Subsidiary in accordance with the terms of this Section 18. Indemnification pursuant to this provision shall be in addition to any right of the Manager to indemnification under Section 12 of this Agreement.

Section 19. Notices. Unless expressly provided otherwise in this Agreement, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of (i) personal delivery, (ii) delivery by reputable overnight courier, (iii) delivery by facsimile transmission with telephonic confirmation or (iv) delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

- (a) If to the Company or the Operating Partnership:

Safety, Income and Growth, Inc.  
1114 Avenue of the Americas  
New York, New York 10036  
Attention:  
Facsimile:

- (b) If to the Manager:

SFTY Manager LLC  
1114 Avenue of the Americas  
New York, New York 10036  
Attention:  
Facsimile:

19

---

Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 19 for the giving of notice.

Section 20. Binding Nature of Agreement; Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided in this Agreement.

Section 21. Entire Agreement. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter of this Agreement and, except for the rights of iStar under Section 14(a) and this Section 22 is not intended to and shall not confer upon any person other than the parties any rights or remedies hereunder. The express terms of this Agreement control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms of this Agreement. This Agreement may not be modified or amended other than by an agreement in writing signed by the Company, the Operating Partnership and the Manager; provided, however, that no modification or amendment to this Agreement that would affect iStar's rights hereunder may be made other than by an agreement in writing signed by iStar and all the other parties hereto.

Section 22. GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES TO THE CONTRARY.

Section 23. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any party hereto, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. No waiver of any provision hereunder shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

Section 24. Headings. The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed part of this Agreement.

Section 25. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts of this Agreement, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

Section 26. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

20

---

Section 27. Gender. Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

[SIGNATURE PAGE FOLLOWS]

21

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

SAFETY, INCOME AND GROWTH, INC.

By: /s/ Jay Sugarman  
Name: Jay Sugarman  
Title: Chief Executive Officer and President

SAFETY INCOME AND GROWTH  
OPERATING PARTNERSHIP LP

By: /s/ Jay Sugarman  
Name: Jay Sugarman  
Title: Authorized Person

SFTY MANAGER LLC

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Title: Chief Operating Officer and  
Chief Financial Officer

iSTAR INC.  
(Solely with respect to its rights under  
Sections 14(a) and 21)

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Title: Chief Operating Officer and  
Chief Financial Officer

Management Agreement

---

## EXCLUSIVITY AND EXPENSE REIMBURSEMENT AGREEMENT

This EXCLUSIVITY AND EXPENSE REIMBURSEMENT AGREEMENT (this “Agreement”) is entered into as of June 27, 2017 by and between iStar Inc., a Maryland corporation (“iStar”), and Safety, Income and Growth, Inc., a Maryland corporation (“Safety”). Capitalized terms used but not otherwise defined herein shall have the meanings set forth in this agreement.

### RECITALS

WHEREAS, in connection with Safety’s initial underwritten public offering (the “IPO”) of common stock, \$0.01 par value per share (the “Safety Common Stock”), iStar has contributed a portfolio of assets to Safety and a subsidiary of iStar will enter into a Management Agreement (the “Management Agreement”) with Safety, effective as of the closing date of the IPO, pursuant to which the iStar subsidiary will act as Safety’s external manager; and

WHEREAS, as described in the final prospectus used in connection with the IPO (the “Final Prospectus”), iStar has agreed to provide certain exclusivity commitments to Safety and to pay, on behalf of Safety, the underwriting discounts and commissions and other offering expenses of Safety related to the IPO and the concurrent private placement of Safety Common Stock to iStar, all as more fully described in the Final Prospectus (the “Concurrent Private Placements”).

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each signatory hereto, it is agreed as follows:

1. Exclusivity. (a) Between the date of the Final Prospectus and the expiration or earlier termination of the Management Agreement (the “Restricted Period”), iStar will not, and will cause each of its Affiliates not to, acquire, originate, invest in or provide debt or equity financing for a third party’s acquisition of, a Ground Net Lease (a “GNL Opportunity”) unless (i) iStar has notified Safety of the GNL Opportunity by delivering a written notice (which may be by email) containing a description of the GNL Opportunity and the terms of the GNL Opportunity of which iStar is aware, to the chair of the nominating and corporate governance committee (or any successor committee performing one or more of the functions of such committee) of Safety’s board of directors and Safety has affirmatively rejected in writing (which may be by email) the GNL Opportunity or has failed to notify iStar in writing (which may be by email) within 10 Business Days after receipt of iStar’s notice that Safety intends to pursue the GNL Opportunity; (ii) the GNL Opportunity involves an Incidental GNL Interest; or (iii) the GNL Opportunity is the manufacture or other creation of a GNL by iStar Net Lease I LLC and its subsidiaries (the “Net Lease Venture”) from a property that has been owned by the Net Lease Venture for at least three years after the closing date of the IPO.

(b) During the Restricted Period, if a potential investment opportunity could be structured as either a Ground Net Lease or a financing within iStar’s investment focus, the potential transaction would meet the investment objectives of both iStar and Safety (including

1

economic, diversification, geographic, maturity date, tenant and other investment objectives) and both iStar and Safety have the available capital to consummate the potential transaction, iStar will present alternative proposals for both a Ground Net Lease and a financing transaction to the potential customer for its consideration.

(c) For purpose of Section 1(a), the following terms shall have the following meanings:

“Affiliate” means, with respect to a person, any person controlling, controlled by or under common control with, the first person. The term “control” shall mean the power to direct the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise. For the purposes of this Agreement, Safety and its consolidated subsidiaries shall be deemed not to be Affiliates of iStar and its consolidated subsidiaries.

“Business Day” means a day in which commercial banks in New York, New York are open for business and is not a Saturday or Sunday.

“Ground Net Lease” means a real property consisting of a ground net lease of the land underlying a commercial real estate project that is net leased, on a triple net lease basis, by the fee owner of the land to a tenant that separately owns or will own the buildings and improvements either built or to be built thereon.

“Incidental GNL Interest” means an opportunity to acquire or invest in, or lend to, an entity or portfolio of assets where not more than 20% of the value of the entity’s or portfolio’s assets, as reasonably determined by iStar, consists of GNLs, or an opportunity to provide debt, preferred equity or equity financing for a third party’s acquisition of an entity or portfolio of assets where not more than 20% of the value of the entity’s or portfolio’s assets, as reasonably determined by iStar, consists of GNLs.

(d) The parties recognize that the legal requirements and public policies of the various states of the United States or other applicable jurisdictions may differ as to the validity and enforceability of covenants similar to those set forth in Section 1(a) of this Agreement. It is the intention of the parties that the provisions of this Agreement be enforced to the fullest extent permissible under the legal requirements and public policies of each jurisdiction in which enforcement may be sought, and that the unenforceability (or the modification to conform to such requirements or policies) of any provisions of this Agreement shall not render unenforceable, or impair, the remainder of the provisions of this Agreement. Accordingly, if any provision of this Agreement shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall be deemed to apply only with respect to the operation of such provision in the particular jurisdiction in which such determination is made and not with respect to any other provision or jurisdiction.

2. Expense Reimbursement. On the closing date of the IPO, and on each subsequent closing date of the sale of Safety Common Stock to the IPO underwriters pursuant to the underwriters’ exercise of their option to purchase additional Safety Common Stock (each, a

2

“Subsequent Purchase”), iStar agrees to pay Safety, by wire transfer of immediately available funds, the aggregate amount of underwriting discounts and commissions paid or payable to the underwriters in connection with the closing of the IPO and such Subsequent Purchase. In addition, iStar agrees to reimburse Safety for its reasonably-documented, out-of-pocket expenses incurred in connection with the IPO, each Subsequent Purchase and the Concurrent Private Placements, within 30 days after the incurrence of such expenses. iStar’s obligation to pay amounts to Safety under this Section 2 is limited to \$25.0 million in the aggregate. All amounts in excess of \$25.0 million shall be borne by Safety.

3. Notices. Except as otherwise expressly provided herein, all notices, requests, demands, claims and other communications required or permitted hereunder will be in writing and will be sent by personal delivery or nationally recognized overnight courier. Any notice, request, demand, claim, or other communication required or permitted hereunder will be deemed duly given, as applicable, (a) upon personal delivery or (b) one Business Day following the date sent when sent by a reputable overnight courier service, addressed as follows:

If to iStar, to:

1114 Avenue of the Americas  
39<sup>th</sup> Floor  
New York, New York 10036  
Attention: General Counsel

If to Safety, to:

1114 Avenue of the Americas  
39<sup>th</sup> Floor  
New York, New York 10036  
Attention: Chair, Nominating and  
Corporate Governance Committee

Any party may change the address to which notices, requests, demands, claims, and other communications required or permitted hereunder are to be delivered by providing to the other parties written notice in the manner herein set forth.

4. Entire Agreement. The agreement of the parties that is comprised of this Agreement sets forth the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements, understandings, negotiations and communications, whether oral or written, relating to the subject matter of this Agreement.

5. Amendments. This Agreement may be amended or modified, but only by an instrument in writing executed by each of the parties hereto.

6. No Third Party Beneficiaries. This Agreement will be binding upon and inure solely to the benefit of the parties hereto, and nothing in this Agreement, express or implied, is

3

---

intended to or will be construed to or will confer upon any other Person any right, claim, cause of action, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

7. Assignments. This Agreement will be binding upon and inure to the benefit of and be enforceable by the successors and permissible assigns of the parties hereto. Neither this Agreement nor any rights and obligations hereunder may be assigned, hypothecated or otherwise transferred by any party hereto (by operation of law or otherwise) without the prior written agreement of the other party.

8. Governing Law. This Agreement, and all claims arising in whole or in part out of, related to, based upon, or in connection herewith or the subject matter hereof will be governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction.

9. Jurisdiction. Each party to this Agreement, by its execution hereof, hereby (a) irrevocably submits to the exclusive jurisdiction of the state courts of the State of New York, located in New York City, or in the United States District Court for the Southern District of New York, for the purpose of any and all actions, suits or proceedings arising in whole or in part out of, related to, based upon or in connection with this Agreement or the subject matter hereof, (b) waives to the extent not prohibited by applicable law, and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, suit, or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such action brought in one of the above-named courts should be dismissed on grounds of *forum non conveniens*, should be transferred to any court other than one of the above-named courts, or should be stayed by reason of the pendency of some other proceeding in any other court other than one of the above-named courts, or that this Agreement or the subject matter hereof may not be enforced in or by such court and (c) agrees not to commence any such action, suit or proceeding other than before one of the above-named courts nor to make any motion or take any other action seeking or intending to cause the transfer or removal of any such action to any court other than one of the above-named courts whether on the grounds of inconvenient forum or otherwise. Each party hereby (x) consents to service of process in any such action in any manner permitted by the laws of the State of New York; (y) agrees that service of process made in accordance with clause (x) or made pursuant to Section 3, will constitute good and valid service of process in any such action; and (z) waives and agrees not to assert (by way of motion, as a defense, or otherwise) in any such action any claim that service of process made in accordance with clause (x) or clause (y) does not constitute good and valid service of process.

10. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LEGAL REQUIREMENTS WHICH CANNOT BE WAIVED, EACH OF THE PARTIES HERETO HEREBY WAIVES AND COVENANTS THAT IT SHALL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, ACTION, CLAIM, CAUSE OF ACTION, SUIT (IN CONTRACT, TORT OR OTHERWISE), INQUIRY, PROCEEDING OR INVESTIGATION ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, IN EACH CASE WHETHER NOW

EXISTING OR HEREAFTER ARISING. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

11. **Specific Performance.** Each of the parties acknowledges and agrees that the other parties would be damaged immediately, extensively and irreparably and no adequate remedy at law would exist in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached or violated. Accordingly, in addition to, and not in limitation of, any other remedy available to any party, the parties agree that, without posting bond or similar undertaking, each of the other parties shall be entitled to an injunction or injunctions to prevent breaches or violations of the provisions of this Agreement and to the remedy of specific performance of this Agreement and the terms and provisions hereof in any action instituted in any court having jurisdiction over the parties and the matter in addition to any other remedy to which such party may be entitled, at law or in equity. Such remedies, and any and all other remedies provided for in this Agreement, will, however, be cumulative in nature and not exclusive and will be in addition to any other remedies to which such party may be entitled. Each of the parties hereby acknowledges and agrees that it may be difficult to prove damages with reasonable certainty, that it may be difficult to procure suitable substitute performance, and that injunctive relief and/or specific performance will not cause an undue hardship to any party. Each party further agrees that, in the event of any action for specific performance in respect of any breach or violation, or threatened breach or violation, of this Agreement, it shall not assert the defense that a remedy at law would be adequate or that specific performance or injunctive relief in respect of such breach or violation should not be available on any other grounds.

12. **No Waiver.** No failure or delay on the part of any party hereto in the exercise of any right hereunder will impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty, covenant or agreement herein, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or of any other right. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), or shall constitute a continuing waiver unless otherwise expressly provided. No waiver of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the party against whom such waiver is intended to be effective.

13. **Construction.** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

14. **Counterparts.** This Agreement may be executed in any number of counterparts, and by the different parties hereto in separate counterparts, each of which will be deemed an original for all purposes and all of which together will constitute one and the same instrument. This Agreement may be executed by facsimile or PDF signature by any party and such signature

will be deemed binding for all purposes hereof without delivery of an original signature being thereafter required.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties have duly executed this Exclusivity and Expense Reimbursement Agreement as of the date first written above.

**iSTAR INC.**

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Title: Chief Operating Officer & Chief Financial Officer

**SAFETY, INCOME AND GROWTH, INC.**

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Title: Chief Operating Officer & Chief Financial Officer

[Signature Page to Exclusivity Expense Reimbursement Agreement]

Dated as of June 27, 2017

SAFETY, INCOME AND GROWTH, INC.,

and

ISTAR INC.

REGISTRATION RIGHTS AGREEMENT

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINED TERMS	1
Section 1.1    Defined Terms	1
Section 1.2    Table of Defined Terms	3
ARTICLE 2 REGISTRATION RIGHTS	4
Section 2.1    Shelf Registration	4
Section 2.2    Demand Registrations	4
Section 2.3    Effectiveness	5
Section 2.4    Notification and Distribution of Materials	5
Section 2.5    Amendments and Supplements	5
Section 2.6    Underwritten Offerings	6
Section 2.7    New York Stock Exchange	6
Section 2.8    Notice of Certain Events	6
ARTICLE 3 SUSPENSION OF REGISTRATION REQUIREMENTS; SALES RESTRICTIONS	7
Section 3.1    Suspension of Registration Requirements	7
Section 3.2    Restriction on Sales	8
ARTICLE 4 INDEMNIFICATION	8
Section 4.1    Indemnification by the Company	8
Section 4.2    Indemnification by the Holder	9
Section 4.3    Notices of Claims, etc.	10
Section 4.4    Indemnification Payments	10
Section 4.5    Contribution	11
ARTICLE 5 TERMINATION; SURVIVAL	11
Section 5.1    Termination; Survival	11
ARTICLE 6 MISCELLANEOUS	12
Section 6.1    Covenants Relating to Rule 144	12
Section 6.2    No Conflicting Agreements	12
Section 6.3    Additional Shares	12
Section 6.4    Governing Law; Arbitration	12
Section 6.5    Counterparts	14
Section 6.6    Headings	14
Section 6.7    Severability	14
Section 6.8    Entire Agreement; Amendments; Waiver	14
Section 6.9    Notices	14
Section 6.10    Successors and Assigns	15
Section 6.11    No Third Party Beneficiaries	15
Section 6.12    Further Assurances	15
Section 6.13    Specific Performance	15
Section 6.14    Costs and Expenses	16

This REGISTRATION RIGHTS AGREEMENT (as the same may be amended, modified or supplemented from time to time, this “**Agreement**”), dated as of June 27, 2017, is made and entered into by and among SAFETY, INCOME AND GROWTH, INC., a Maryland corporation (the “**Company**”), and ISTAR INC., a Maryland corporation (together with any of its subsidiaries that owns Registrable Shares from time to time, the “**Holder**”).

WHEREAS, on April 14, 2017, the Holder purchased 2,775,000 shares (the “**Subscription Shares**”) of the Company’s common stock, par value \$0.01 per share (the “**Common Stock**”), from the Company on the terms and conditions set forth in that certain Subscription Agreement, dated as of April 14, 2017 (the “**Subscription Agreement**”), relating to the Subscription Shares;

WHEREAS, contemporaneously with its entry into this Agreement, the Holder is purchasing 2,250,000 shares (the “**Private Placement Shares**” and together with the Subscription Shares, the “**Purchased Shares**”) of the Company’s Common Stock from the Company, on the terms and conditions set forth in that certain Private Placement Purchase Agreement, of even date herewith, relating to the Private Placement Shares (the “**Private Placement Purchase Agreement**”), and is entering into an Agreement Regarding Waiver of Ownership Limit with the Company relating to the Holder’s ownership of Common Stock from time to time (the “**Ownership Waiver**” and together with the Subscription Agreement and the Private Placement Purchase Agreement, the “**Related Documents**”);

WHEREAS, the Company desires to enter into this Agreement with the Holder in order to grant the Holder the registration rights contained herein.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Holder hereby agree as follows:

## ARTICLE 1

### DEFINED TERMS

Section 1.1 **Defined Terms.** The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

“**Automatic Shelf Registration Statement**” means an “Automatic Shelf Registration Statement,” as defined in Rule 405 under the Securities Act.

“**Business Day**” means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to be closed.

“**Commission**” means the U.S. Securities and Exchange Commission.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended from time to time (or any corresponding provision of succeeding law), and the rules and regulations thereunder.

---

“**IPO**” means the Company’s initial underwritten public offering of its Common Stock.

“**IPO Closing Date**” means the closing date of the IPO.

“**Management Agreement**” means the Management Agreement, dated the date hereof, among the Company, the Manager and the Holder.

“**Manager**” means SFTY Manager LLC, a Delaware limited liability company.

“**Person**” means any individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization or other governmental or legal entity.

“**Prospectus**” means any prospectus or prospectuses included in, or relating to, any Registration Statement (including without limitation, any prospectus subject to completion and a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act and any term sheet filed pursuant to Rule 434 under the Securities Act), as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Shares covered by such Registration Statement and by all other amendments and supplements to the prospectus, including post-effective amendments and all material incorporated by reference or deemed to be incorporated by reference in such prospectus or prospectuses.

“**Registrable Shares**” with respect to the Holder, means at any time (i) the Holder’s Purchased Shares, (ii) shares of Common Stock issued to the Manager under the Management Agreement from time to time, and (iii) any other shares of Common Stock or other equity securities acquired by the Holder or any of its subsidiaries from the Company or an affiliate of the Company from time to time not in excess of any restriction or limit on such ownership as set forth in any of the Related Documents, including, in each case, any additional shares of Common Stock or other equity securities issued as a dividend or distribution on, in exchange for, or otherwise in respect of, shares of Common Stock or other equity securities that otherwise constitute Registrable Shares with respect to the Holder (including as a result of combinations, recapitalizations, mergers, consolidations, reorganizations or similar event or otherwise); **provided, however, that** Registrable Shares shall cease to be Registrable Shares with respect to the Holder upon the earliest to occur of (A) when such Registrable Shares shall have been disposed of pursuant to an effective Registration Statement under the Securities Act, (B) when all of the Holder’s Registrable Shares may be sold without restriction pursuant to Rule 144(b) under the Securities Act or any replacement rule or (C) when the Holder’s Registrable Shares shall have ceased to be outstanding.

“**Registration Expenses**” means any and all fees and expenses incident to the performance of or compliance with this Agreement, which shall be borne and paid by the Company as provided below, whether or not any Registration Statement is filed or becomes effective, including, without limitation: (i) all registration, qualification and filing fees (including fees and expenses with respect to (A) filings required to be made with the Commission and the U.S.



without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), (iv) the fees and expenses incurred in connection with the listing of the Registrable Shares, (v) the fees and disbursements of legal counsel for the Company and customary fees and expenses for independent certified public accountants retained by the Company, and any transfer agent and registrar fees and (vi) the reasonable fees and expenses of any special experts retained by the Company; **provided, however, that** “Registration Expenses” shall not include, and the Company shall not have any obligation to pay, any underwriting fees, discounts, commissions, or taxes (including transfer taxes) attributable to the sale of securities by the Holder, or any legal fees and expenses of counsel to the Holder and any underwriter engaged by the Holder or any other expenses incurred in connection with the performance by the Holder of its obligations under the terms of this Agreement.

“**Registration Statement**” means any registration statement of the Company filed with the Commission under the Securities Act which permits the public offering of any of the Registrable Shares pursuant to the provisions of this Agreement, including any Prospectus, amendments and supplements to such Registration Statement, including post-effective amendments, all exhibits and all materials incorporated by reference or deemed to be incorporated by reference in such Registration Statement.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended from time to time (or any corresponding provision of succeeding law), and the rules and regulations thereunder.

Section 1.2 **Table of Defined Terms.** Terms that are not defined in Section 1.1 have the respective meanings set forth in the following Sections:

<b>Defined Term</b>	<b>Section No.</b>
Agreement	Preamble
Common Stock	Recitals
Company	Preamble
Company Offering	Section 3.2(b)
Controlling Person	Section 4.1
Demand Registration	Section 2.2(a)(i)
Demand Request	Section 2.2(a)(i)
Holder	Preamble
Liabilities	Section 4.1(a)
Offering Blackout Period	Section 3.2(b)
Ownership Waiver	Recitals
Private Placement Purchase Agreement	Recitals
Purchased Shares	Recitals
Related Documents	Recitals
Required Filing Date	Section 2.2(a)(ii)
Suspension Event	Section 3.1(b)

## ARTICLE 2

### REGISTRATION RIGHTS

Section 2.1 **Shelf Registration.** The Company agrees to file, as promptly as practicable on or after the date that is 12 months after the IPO Closing Date, with the Commission a Registration Statement on an appropriate form (which shall be, if the Company is then eligible, an Automatic Shelf Registration Statement) providing for the registration of, and the sale by the Holder of, all of the Registrable Shares held by the Holder at the time of such filing on a continuous or delayed basis by the Holder, from time to time in accordance with the methods of distribution elected by the Holder, pursuant to Rule 415 under the Securities Act or any similar rule that may be adopted by the Commission. The Company will use its reasonable best efforts to cause the Registration Statement to be declared effective by the Commission as soon as practicable after the filing thereof. To the extent that the Company has an effective shelf registration statement on file and it is effective with the Commission at the time the Company is going to file a Registration Statement hereunder, the Company may (but will not be required to) instead file a prospectus or post-effective amendment, as applicable, to include in such shelf registration statement the Registrable Shares to be registered pursuant to this Agreement (in such a case, such prospectus or post-effective amendment together with the previously filed shelf registration statement will be considered the Registration Statement).

Section 2.2 **Demand Registrations.**

(a) **Request for Registration.**

(i) From and after the date that is 12 months after the IPO Closing Date, the Holder shall have the right to require the Company to file a Registration Statement under the Securities Act for a public offering of all or part of the Registrable Shares (a “**Demand Registration**”) by delivering to the Company written notice stating that such right is being exercised by the Holder, specifying the number of Registrable Shares to be included in such registration and, subject to Section 2.2(b) hereof, describing the intended method of distribution thereof (a “**Demand Request**”). The Holder may exercise its rights under this Section 2.2 in the Holder’s sole discretion.

(ii) Each Demand Request shall specify the aggregate number of Registrable Shares proposed to be sold. Subject to Section 3.1, the Company shall file the Registration Statement in respect of a Demand Registration within 45 days after receiving a Demand Request (the

“Required Filing Date”) and shall use reasonable best efforts to cause the same to be declared effective by the Commission as promptly as practicable after such filing; provided, however, that:

(A) the Company shall not be obligated to cause a Registration Statement with respect to a Demand Registration to be declared effective pursuant to Section 2.2(a)(ii) unless the Demand Request is for a number of Registrable Shares with a market value that is equal to at least \$10 million as of the date of such Demand Request; provided, however, that this Section 2.2(a)(ii)(A) shall not apply if the applicable Demand Request is for all of the Registrable Shares held by the Holder as of the date of such Demand Request; and

4

---

(B) the Holder shall have the right to withdraw a Demand Request at any time prior to the relevant Registration Statement being declared effective by the Commission in which event the Company shall not be obligated to cause a Registration Statement with respect to a Demand Registration to be declared effective pursuant to Section 2.2(a)(ii).

(b) **Priority on Demand Registrations.** The Company shall include in a Demand Registration only the Registrable Shares requested by the Holder to be included therein.

(c) **Selection of Underwriters.** The holder may (i) request that the offering of Registrable Shares pursuant to a Demand Registration be in the form of a “firm commitment” underwritten offering and (ii) select the investment banking firm or firms to manage the underwritten offering.

Section 2.3 **Effectiveness.** The Company shall use its reasonable best efforts to keep each Registration Statement continuously effective (or in the event a Registration Statement expires pursuant to Rule 415(a)(5) under the Securities Act, file a replacement Registration Statement and keep such replacement Registration Statement effective) for the period beginning on the date on which the Registration Statement is declared or becomes effective and ending on the date that no Registrable Shares registered thereunder remain as Registrable Shares.

Section 2.4 **Notification and Distribution of Materials.** The Company shall notify the Holder of the effectiveness of any Registration Statement applicable to the Registrable Shares and shall furnish to the Holder such number of copies of such Registration Statement (including any amendments, supplements and exhibits), the Prospectus contained therein (including each preliminary prospectus and all related amendments and supplements, if any) and any documents incorporated by reference in such Registration Statement or such other documents as the Holder may reasonably request in order to facilitate the sale of the Registrable Shares in the manner described in such Registration Statement.

Section 2.5 **Amendments and Supplements.** During the period that a Registration Statement is effective, the Company shall prepare and file with the Commission from time to time such amendments and supplements to such Registration Statement and Prospectus used in connection therewith as may be necessary to keep such Registration Statement (or a successor Registration Statement filed with respect to such Registrable Shares) effective and to comply with the provisions of the Securities Act with respect to the disposition of the Registrable Shares covered thereby. The Company shall file, as promptly as practicable (and within fifteen (15) Business Days), any supplement or post-effective amendment to a Registration Statement, to add Registrable Shares to any shelf Registration Statement as a result of the issuance of Common Stock pursuant to the Management Agreement, or as is otherwise reasonably necessary to permit the sale of the Holder’s Registrable Shares pursuant to such Registration Statement. The Company shall furnish to and afford the Holder a reasonable opportunity to review and comment on all amendments and supplements proposed to be filed to a Registration Statement (in each case at least five (5) Business Days prior to such filing). The Company shall use its reasonable best efforts to have such supplements and amendments declared effective, if required, as soon as practicable after filing. The Holder agrees to deliver such notices, questionnaires and other

5

---

information as the Company may reasonably request in writing, if any, to the Company within ten (10) Business Days after such request.

Section 2.6 **Underwritten Offerings.** The Holder may request, by written notice to the Company, that the Company cooperate with the Holder in any underwritten offering of Registrable Shares initiated by the Holder under a Registration Statement. The Company agrees to reasonably cooperate with any such request for an underwritten offering and to take all such other reasonable actions in connection therewith, including entering into such agreements (including an underwriting agreement in form, scope and substance as is customary for similar underwritten offerings) and taking all such other reasonable actions in connection therewith in order to expedite or facilitate the disposition of Registrable Shares included in such underwritten offering, including (i) making such representations and warranties to the underwriters with respect to the business of the Company and the Registration Statement and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings by selling stockholders; (ii) obtaining customary opinions and negative assurance letters of counsel to the Company; and (iii) obtaining customary “cold comfort” letters and updates thereof from the independent registered public accountants of the Company (to the extent permitted by applicable accounting rules and guidelines).

Section 2.7 **New York Stock Exchange.** The Company shall file any necessary listing applications or amendments to the existing applications to cause the Registrable Shares registered under any Registration Statement to be then listed or quoted on the New York Stock Exchange or such other primary exchange or quotation system on which the Common Stock is then listed or quoted.

Section 2.8 **Notice of Certain Events.**

(a) The Company shall promptly notify the Holder in writing of the filing of any Registration Statement or Prospectus, amendment or supplement related thereto or any post-effective amendment to a Registration Statement and the effectiveness of any post-effective amendment; **provided, however, that** this Section 2.8(a) shall not apply to (i) an amendment or supplement relating solely to securities other than the Registrable Shares, and (ii) an amendment or supplement by means of an Annual Report on Form 10-K, a Quarterly Report on Form 10-Q, a Proxy Statement on Schedule 14A, a Current Report on Form 8-K or a Registration Statement on Form 8-A or any amendments thereto filed with the Commission under the Exchange Act and incorporated or deemed to be incorporated by reference into a Registration Statement or Prospectus.

(b) At any time when a Prospectus relating to a Registration Statement is required to be delivered under the Securities Act by the Holder to a transferee, the Company shall immediately notify the Holder of the happening of any event as a result of which the Company believes the

Prospectus included in such Registration Statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. In such event, the Company shall promptly prepare and, if applicable, furnish to the Holder a reasonable number of copies of a supplement to or an

amendment of such Prospectus as may be necessary so that, as thereafter delivered to the purchasers of Registrable Shares sold under the Prospectus, such Prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they are made, not misleading. The Company shall, if necessary, promptly amend the Registration Statement of which such Prospectus is a part to reflect such amendment or supplement. The Holder agrees that, upon receipt of any notice from the Company of the occurrence of an event as set forth above, the Holder will forthwith discontinue disposition of Registrable Shares pursuant to any Registration Statement covering such Registrable Shares until the Holder's receipt of written notice from the Company that the use of the Registration Statement may be resumed. The Holder also agrees that it will treat as confidential the receipt of any notice from the Company of the occurrence of an event as set forth above and shall not disclose or use the information contained in such notice without the prior written consent of the Company until such time as the information contained therein is or becomes available to the public generally, other than as a result of disclosure by the Holder in breach of the terms of this Agreement.

### ARTICLE 3

#### SUSPENSION OF REGISTRATION REQUIREMENTS; SALES RESTRICTIONS

##### Section 3.1 Suspension of Registration Requirements.

(a) The Company shall promptly notify the Holder in writing of the issuance by the Commission or any state instrumentality of any stop order suspending the effectiveness of a Registration Statement with respect to the Holder's Registrable Shares or the initiation of any proceedings for that purpose. The Company shall use its reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of such a Registration Statement as promptly as practicable after the issuance thereof.

(b) Notwithstanding anything to the contrary set forth in this Agreement, the Company's obligation under this Agreement to file, amend or supplement a Registration Statement, or to cause a Registration Statement, or any filings under any state securities laws, to become or remain effective shall be suspended, as the Company may reasonably determine necessary and advisable (but in no event more than twice in any rolling 12-month period commencing on the date of this Agreement or more than 60 consecutive days, except as a result of a refusal by the Commission to declare any post-effective amendment to the Registration Statement effective after the Company has used its reasonable best efforts to cause the post-effective amendment to be declared effective by the Commission, in which case, the Company must terminate the black-out period immediately following the effective date of the post-effective amendment) in the event of pending negotiations relating to, or consummation of, a material transaction or the occurrence of a material event that, in the good faith judgment of the board of directors of the Company, (i) would require additional disclosure of material non-public information by the Company in the Registration Statement or such filing, as to which the Company has a bona fide business purpose for preserving confidentiality, and the premature disclosure of which would adversely affect the Company, or (ii) render the Company unable to comply with Commission requirements (any such circumstances being hereinafter referred to as

a "**Suspension Event**"). The Company shall notify the Holder of the existence of any Suspension Event by promptly delivering to the Holder a certificate signed by an executive officer of the Company stating that a Suspension Event has occurred and is continuing. The Holder agrees that it will treat as confidential the receipt of any notice from the Company of the occurrence of an event as set forth above and shall not disclose or use the information contained in such notice without the prior written consent of the Company until such time as the information contained therein is or becomes available to the public generally, other than as a result of disclosure by the Holder in breach of the terms of this Agreement.

##### Section 3.2 Restriction on Sales.

(a) The Holder agrees that, following the effectiveness of any Registration Statement relating to its Registrable Shares, the Holder will not effect any dispositions of any of its Registrable Shares pursuant to such Registration Statement or any filings under any state securities laws at any time after the Holder has received notice from the Company to suspend dispositions as a result of the occurrence or existence of any Suspension Event or so that the Company may correct or update the Registration Statement or such filing. The Holder will maintain the confidentiality of any information included in the written notice delivered by the Company unless otherwise required by law or subpoena. The Holder may recommence effecting dispositions of the Registrable Shares pursuant to the Registration Statement or such filings, and all other obligations which are suspended as a result of a Suspension Event shall no longer be so suspended, following further notice to such effect from the Company, which notice shall be given by the Company promptly after the conclusion of any such Suspension Event.

(b) The Holder further agrees, if requested by the managing underwriter or underwriters in a Company-initiated underwritten offering (each, a "**Company Offering**"), not to effect any disposition of any of the Registrable Shares during the period (the "**Offering Blackout Period**") beginning upon receipt by the Holder of written notice from the Company, but in any event no earlier than the fifteenth (15th) day preceding the anticipated date of pricing of such Company Offering, and ending no later than ninety (90) days after the closing date of such Company Offering, and in no event for any longer period of time than is applicable to iStar Inc. in connection with such Company Offering. Such Offering Blackout Period notice shall be in writing in a form reasonably satisfactory to the Company and the managing underwriter or underwriters. The Holder will maintain the confidentiality of any information included in such notice delivered by the Company unless otherwise required by law or subpoena.

### ARTICLE 4

#### INDEMNIFICATION

Section 4.1 **Indemnification by the Company.** The Company agrees to indemnify and hold harmless the Holder, and the officers, directors, stockholders, members, managers, partners, affiliates, accountants, attorneys, trustees, employees, representatives and agents of the Holder, and each Person (a “**Controlling Person**”), if any, who controls (within the meaning of Section 15(a) of the Securities Act or Section 20(a) of the Exchange Act) any of the foregoing Persons, as follows (to the fullest extent permitted by applicable law):

8

(a) from and against any and all costs, losses, liabilities, obligations, claims, damages, judgments, fines, penalties, awards, actions, other liabilities and expenses whatsoever (the “**Liabilities**”), as incurred by any of them, arising out of or in connection with (A) any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement (or any amendment or supplement thereto) pursuant to which Registrable Shares were registered under the Securities Act, including all documents incorporated therein by reference, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, or (B) any untrue statement or alleged untrue statement of a material fact contained in any Prospectus (or any amendment or supplement thereto) or the omission or alleged omission therefrom at such date of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(b) from and against any and all Liabilities, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; **provided that** (subject to Section 4.4 below) any such settlement is effected with the prior written consent of the Company; and

(c) from and against any and all legal or other expenses whatsoever, as incurred (including the reasonable fees and disbursements of one counsel chosen by any indemnified party) in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under subparagraph (a) or (b) above;

**provided, however, that** this indemnity agreement shall not apply to any Liabilities to the Holder or its Controlling Persons to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by the Holder expressly for use in a Registration Statement (or any amendment thereto) or any Prospectus (or any amendment or supplement thereto).

Section 4.2 **Indemnification by the Holder.** The Holder agrees to indemnify and hold harmless the Company, and the officers, directors, stockholders, members, partners, managers, employees, trustees, executors, representatives and agents of the Company, and each of their respective Controlling Persons, to the fullest extent permitted by applicable law, from and against any and all Liabilities described in the indemnity contained in Section 4.1 hereof, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto) or any Prospectus included therein (or any amendment or supplement thereto) in reliance upon and in conformity with written information with respect to the Holder furnished to the Company by the Holder expressly for use in the Registration Statement (or any amendment thereto) or such Prospectus (or any amendment or supplement thereto); **provided, however, that** the Holder shall not be liable for any claims hereunder in excess of the amount of net proceeds (after deducting

9

underwriters’ discounts and commissions) received by the Holder from the sale of Registrable Shares pursuant to such Registration Statement, and **provided further, that** the obligations of the Holder hereunder shall not apply to amounts paid in settlement of any such Liabilities if such settlement is effected without the prior written consent of the Holder to the extent such consent is required under Section 4.3.

Section 4.3 **Notices of Claims, etc.** Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action or proceeding commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder unless the indemnifying party is actually materially prejudiced as a result thereof, and in such case, only to the extent of such prejudice, and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. An indemnifying party may participate therein at its own expense and, to the extent that it shall wish, assume the defense of such action; **provided, however, that** counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. Notwithstanding the indemnifying party’s rights in the immediately preceding sentence, the indemnified party shall have the right to employ its own counsel (in addition to any local counsel), and the indemnifying party shall bear the reasonable fees, costs, and expenses of such separate counsel if (a) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (b) actual or potential defendants in, or targets of, any such proceeding include both the indemnified party and the indemnifying party, and the indemnified party shall have reasonably concluded that there may be a legal defense available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party; (c) the indemnifying party shall not have employed counsel to represent the indemnified party within a reasonable time after notice of the institution of such proceeding; or (d) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. In no event shall the indemnifying party or parties be liable for the fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Article 4 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

Section 4.4 **Indemnification Payments.** If at any time an indemnified party shall have requested an indemnifying party consent to any settlement of the nature contemplated by Section 4.1(b), such indemnifying party agrees that it shall be liable for such settlement, including any such related fees and expenses of counsel, effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such

settlement at least 30 days prior to such settlement being entered into, and (iii) such indemnifying party shall not have responded to such indemnified party in accordance with such request prior to the date of such settlement.

#### Section 4.5 **Contribution.**

(a) If the indemnification provided for in this Article 4 is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any Liabilities referred to therein, then each indemnifying party shall contribute to the aggregate amount of such Liabilities incurred by such indemnified party, as incurred, in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and the applicable Holder on the other hand in connection with the statements or omissions which resulted in such Liabilities, as well as any other relevant equitable considerations.

(b) The relative fault of the Company on the one hand and the Holder on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or the Holder and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(c) The Company and the Holder agree that it would not be just and equitable if contribution pursuant to this Section 4.5 were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Article 4. The aggregate amount of Liabilities incurred by an indemnified party and referred to above in this Article 4 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

(d) No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

### ARTICLE 5

#### TERMINATION; SURVIVAL

Section 5.1 **Termination; Survival.** The rights of the Holder under this Agreement shall terminate upon the date that the Holder ceases to hold Registrable Shares. Notwithstanding the foregoing, the rights and obligations of the parties under Article 4 and Article 6 of this Agreement shall remain in full force and effect following such time.

### ARTICLE 6

#### MISCELLANEOUS

Section 6.1 **Covenants Relating to Rule 144.** For so long as the Company is subject to the reporting requirements of Section 13 or 15 of the Exchange Act, the Company covenants that it will file the reports required to be filed by it under the Securities Act and Section 13(a) or 15(d) of the Exchange Act and the rules and regulations adopted by the Commission thereunder. If the Company ceases to be so required to file such reports, the Company covenants that it will upon the request of the Holder of Registrable Shares (a) make publicly available such information as is necessary to permit sales pursuant to Rule 144 under the Securities Act, (b) deliver such information to a prospective purchaser as is necessary to permit sales pursuant to Rule 144A under the Securities Act and it will take such further action as the Holder of Registrable Shares may reasonably request, and (c) take such further action that is reasonable in the circumstances, in each case to the extent required from time to time to enable the Holder to sell its Registrable Shares without registration under the Securities Act within the limitation of the exemptions provided by (i) Rule 144 under the Securities Act, as such Rule may be amended from time to time, (ii) Rule 144A under the Securities Act, as such rule may be amended from time to time, or (iii) any similar rules or regulations hereafter adopted by the Commission. Upon the request of the Holder of Registrable Shares, the Company will deliver to the Holder a written statement as to whether it has complied with such requirements and of the Securities Act and the Exchange Act, a copy of the most recent annual and quarterly report(s) of the Company, and such other reports, documents or stockholder communications of the Company, and take such further actions consistent with this Section 6.1, as the Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing the Holder to sell any such Registrable Shares without registration.

Section 6.2 **No Conflicting Agreements.** The Company hereby represents and warrants that the Company has not entered into and the Company will not after the date of this Agreement enter into any agreement which conflicts with the rights granted to the Holder of Registrable Shares pursuant to this Agreement or otherwise conflicts with the provisions of this Agreement. The Company hereby represents and warrants that the rights granted to the Holder hereunder do not and will not for the term of this Agreement in any way conflict with the rights granted to the holders of the Company's other issued and outstanding securities under any such agreements.

Section 6.3 **Additional Shares.** The Company, at its option, may register, under any Registration Statement and any filings under any state securities laws filed pursuant to this Agreement, any number of unissued, treasury or other Common Stock of or owned by the Company and any of its subsidiaries or any Common Stock or other securities of the Company owned by any other security holder or security holders of the Company.

Section 6.4 **Governing Law; Arbitration.** (a) All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and shall be construed and interpreted in accordance with, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of

any jurisdiction other than the State of New York. Subject to paragraph (b), the Company and the Holder hereby agree that (a) any and all litigation arising out of this Agreement shall be conducted only in state or Federal courts located in the State of New York and (b) such courts shall have the exclusive jurisdiction to hear and decide such matters. The Holder accepts, for itself and in respect of the Holder's property, expressly and unconditionally, the nonexclusive jurisdiction of such courts and hereby waives any objection that the Holder may now or hereafter have to the laying of venue of such actions or proceedings in such courts. Insofar as is permitted under applicable law, this consent to personal jurisdiction shall be self-operative and no further instrument or action, other than service of process in the manner set forth in Section 6.9 hereof or as otherwise permitted by law, shall be necessary in order to confer jurisdiction upon the Holder in any such courts. The Company and the Holder hereby agree that the provisions of this Section 6.4 for service of process are intended to constitute a "special arrangement for service" in accordance with the provisions of the Foreign Sovereign Immunities Act of 1976, 28. U.S.C. Section 1608(a)(1) *et seq.* Nothing contained herein shall affect the right serve process in any manner permitted by law or to commence any legal action or proceeding in any other jurisdiction. The Company and the Holder hereby (i) expressly waive any right to a trial by jury in any action or proceeding to enforce or defend any right, power or remedy under or in connection with this Agreement or arising from any relationship existing in connection with this Agreement, and (ii) agree that any such action shall be tried before a court and not before a jury.

(b) Notwithstanding anything to the contrary contained in Section 6.4(a) the Company and the Holder hereby agrees that the Company and the Holder shall have the right to elect to arbitrate and compel arbitration of any dispute hereunder through final and binding arbitration before JAMS (or its successor) ("**JAMS**"). Any party hereto may commence the arbitration process by filing a written demand for arbitration with JAMS, with a copy to the other parties; **provided, however, that** any party may, without inconsistency with this arbitration provision, apply to any court in accordance with Section 6.4(a) and seek injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Any arbitration to be conducted pursuant to this Section 6.4(b) will be conducted in New York, New York by a three-member Arbitration Panel operating in accordance with the provisions of JAMS Streamlined Arbitration Rules and Procedures in effect at the time the demand for arbitration is filed. Each of the Company and the Holder shall nominate one neutral arbitrator from the JAMS panel of neutrals, and the two arbitrators thus nominated shall select the Chair of the Arbitration Panel, also from the JAMS panel of neutrals. The arbitrators shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, but not limited to, the issuance of an injunction; **provided, however, that** the arbitration award shall not include factual findings or conclusions of law and no punitive damages shall be awarded. The fees and expenses of such arbitration shall be borne by the non-prevailing party, as determined by such arbitration. The provisions of this Section 6.4(b) with respect to the arbitration conducted pursuant to this Section 6.4(b) before JAMS may be enforced by any court of competent jurisdiction, and the parties seeking enforcement shall be entitled to an award of all costs, fees and expenses, including reasonable out-of-pocket attorney's fees, to be paid by the party (or parties) against whom enforcement is ordered. The parties agree that this Section 6.4(b) has been included to rapidly and inexpensively resolve any disputes between them with respect to the matters described herein, and that this Section 6.4(b) shall be grounds for dismissal of any court action commenced by any party with respect to a dispute arising out of such matters, in the event the Company or the Holder elects to compel arbitration.

Section 6.5 **Counterparts.** This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party; **provided that** a signature delivered by facsimile, email pdf or other electronic form shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original.

Section 6.6 **Headings.** The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

Section 6.7 **Severability.** If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction.

Section 6.8 **Entire Agreement; Amendments; Waiver.** This Agreement and the Related Documents supersede all other prior oral or written agreements between the Holder, the Company, their respective affiliates and Persons acting on their behalf with respect to the matters discussed herein, and this Agreement and the Related Documents contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor the Holder makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be amended other than by an instrument in writing signed by the Company and the Holder. No provision hereof may be waived other than by an instrument in writing signed by the party against whom enforcement is sought.

Section 6.9 **Notices.** Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (**provided** confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one Business Day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to the Company:

Safety, Income and Growth, Inc.  
1114 Avenue of the Americas  
39th Floor  
New York, New York 10036  
Attention: Nina B. Matis, Chief Investment and Legal Officer  
Facsimile: 212-930-9494

with a copy (for informational purposes only) to:

Clifford Chance US LLP  
31 W. 52nd Street

If to the Holder:

iStar Inc.  
1114 Avenue of the Americas  
39th Floor  
New York, New York 10036  
Attention: Nina B. Matis, Chief Investment and Legal Officer  
Facsimile: 212-930-9494

with a copy (for informational purposes only) to:

Clifford Chance US LLP  
31 W. 52nd Street  
New York, New York 10019  
Attention: Kathleen L. Werner  
Facsimile: 212-878-8375

Section 6.10 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Holder. The Holder may assign this Agreement or any rights hereunder without the prior written consent of the Company, only in connection with any assignment, transfer or other disposition of Registrable Shares in compliance with the terms of the Subscription Agreement and the other Related Documents. If any transferee of the Holder shall acquire Registrable Shares, in any manner, whether by operation of law or otherwise, such Registrable Shares shall be held subject to all of the terms of this Agreement, and by taking and holding such Registrable Shares such Person shall be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement, including the restrictions on resale set forth in this Agreement and, if applicable, the Related Documents, and such Person shall be entitled to receive the benefits hereof.

Section 6.11 **No Third Party Beneficiaries.** This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person other than as expressly set forth in Article 4 and this Section 6.11.

Section 6.12 **Further Assurances.** Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

Section 6.13 **Specific Performance.** The parties acknowledge and agree that in the event of a breach or threatened breach of its covenants hereunder, the harm suffered would not be compensable by monetary damages alone and, accordingly, in addition to other available legal

or equitable remedies, each non-breaching party shall be entitled to apply for an injunction or specific performance with respect to such breach or threatened breach, without proof of actual damages (and without the requirement of posting a bond, undertaking or other security), and the Holder and the Company agree not to plead sufficiency of damages as a defense in such circumstances.

Section 6.14 **Costs and Expenses.** The Company shall bear all Registration Expenses incurred in connection with the registration of the Registrable Shares pursuant to this Agreement and the Company's performance of its other obligations under the terms of this Agreement; **provided, however, that** the Holder shall bear all underwriting fees, discounts, commissions, or taxes (including transfer taxes) attributable to the sale of securities by the Holder, or any legal fees and expenses of counsel to the Holder and any underwriter engaged by the Holder and all other expenses incurred in connection with the performance by the Holder of its obligations under the terms of this Agreement. All other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby will be paid by the party incurring such costs and expenses, whether or not any of the transactions contemplated hereby are consummated.

[Signature Page Follows.]

IN WITNESS WHEREOF, the Holder and the Company have caused their respective signature page to this Agreement to be duly executed as of the date first written above.

SAFETY, INCOME AND GROWTH, INC.

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis

Title: Chief Operating Officer & Chief Financial Officer

iSTAR INC.

By: /s/ Geoffrey G. Jervis

Name: Geoffrey G. Jervis

Title: Chief Operating Officer & Chief Financial Officer

*[Signature Page to Registration Rights Agreement]*

---



## INITIAL PORTFOLIO AGREEMENT

AMONG

iSTAR INC.,

SAFETY, INCOME AND GROWTH, INC.

AND

SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP

DATED: June 27, 2017

## TABLE OF CONTENTS

	<u>Page No.</u>
ARTICLE 1 BASIC INFORMATION	1
1.1 Certain Basic Terms	1
1.2 Notice Addresses:	4
ARTICLE 2 REPRESENTATIONS AND WARRANTIES	5
2.1 iStar's Representations and Warranties	5
2.2 Safety and Operating Partnership's Representations and Warranties	8
ARTICLE 3 SURVIVAL; INDEMNITY	8
3.1 Survival of Representations, Warranties and Covenants	8
3.2 Survival	9
ARTICLE 4 MISCELLANEOUS	10
4.1 Parties Bound; Assignment	10
4.2 Headings	10
4.3 Invalidity and Waiver	10
4.4 Governing Law	10
4.5 Survival	10
4.6 Entirety and Amendments	10
4.7 Notices	10
4.8 Construction	11
4.9 Calculation of Time Periods; Business Day	11
4.10 Execution in Counterparts	11
4.11 Further Assurances	11
4.12 No Third Party Beneficiary	11

## LIST OF DEFINED TERMS

	<u>Page No.</u>
Agreement	1
Business Day	1
Closing	1
Closing Date	1
Contributed Entities	1
Contributed Interests	2
Contribution	2
Effective Date	2
Environmental Law	2
Governmental Authority	2
Hazardous Materials	2
IPO	2
iStar	2
iStar Material Adverse Effect	2
iStar's Representatives	8

Laws	2
Leases	2
Liens	2
Operating Partnership	3
Permitted Liens	3
Properties	3
Registration Statement	3
Safety	3
Safety Common Stock	3
SEC	3
Survival Period	8
Tax	3
Tax Return	3
Trading Day	3
Value	4

## INITIAL PORTFOLIO AGREEMENT

This Initial Portfolio Agreement (this “**Agreement**”) is made and entered into by and among iStar, Safety and the Operating Partnership.

### RECITALS

- A. Defined terms are indicated by initial capital letters. Defined terms shall have the meanings set forth herein, whether or not such terms are used before or after the definitions are set forth.
- B. Safety intends to conduct the IPO;
- C. On December 1, 2016, iStar contributed the Contributed Interests to the Operating Partnership. iStar has agreed to make certain representations and warranties regarding the Contributed Interests and the Properties to Safety and the Operating Partnership in connection with the IPO;
- D. Through a series of transactions that occurred between December 1, 2016 and April 14, 2017, iStar received total consideration valued at \$340.0 million in respect of the Contributed Interests, which it confirms is adequate consideration for its agreements hereunder; and
- E. A wholly-owned subsidiary of iStar has been the external manager of Safety since April 1, 2014.

NOW, THEREFORE, in consideration of the mutual terms, provisions, covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, iStar, Safety and the Operating Partnership agree as follows:

### ARTICLE 1 BASIC INFORMATION

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

- 1.1.1 “**Business Day**”: A day on which banks in New York City are open for business.
- 1.1.2 “**Closing**”: The closing of the IPO.
- 1.1.3 “**Closing Date**”: The date of the Closing.
- 1.1.4 “**Contributed Entities**”: The limited liability companies and limited partnerships listed in Exhibit A hereto.

1.1.5 “**Contributed Interests**”: All of the issued and outstanding limited liability company and limited partnership interests in the Contributed Entities.

1.1.6 “**Contribution**”: The contribution of the Contributed Interests by iStar to the Operating Partnership effected as of December 1, 2016.

1.1.7 “**Effective Date**”: The effective date of the Registration Statement.

1.1.8 “**Environmental Law**”: any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other governmental directives or requirements, as well as common law, relating to the protection of human health or the environment, Hazardous Materials, liability for, or costs of, other actual or threatened danger to human health or the environment.

1.1.9 “**Governmental Authority**”: any government or agency, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

1.1.10 “**Hazardous Materials**”: “Hazardous Material,” “Hazardous Substance,” “Pollutant or Contaminant,” and “Petroleum” and “Natural Gas Liquids,” as those terms are defined or used in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act Of 1980 (42

U.S.C. Sections 9601 et seq.), as amended, and any other substances regulated because of their effect or potential effect on public health and the environment, including, without limitation, PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials.

1.1.11 “**IPO**”: The initial underwritten public offering of Safety Common Stock.

1.1.12 “**iStar**”: iStar Inc., a Maryland corporation

1.1.13 “**iStar Material Adverse Effect**”: a material adverse effect on the assets, business, financial condition or results of operation of iStar and its consolidated subsidiaries, taken as a whole.

1.1.14 “**Laws**”: laws, statutes, rules, regulations, codes, orders, ordinances, judgments, injunctions, decrees and policies of any Governmental Authority.

1.1.15 “**Leases**”: means the master lease and ground leases listed in Exhibit B hereto, as amended from time to time.

1.1.16 “**Liens**”: all pledges, claims, security interests, liens, charges, restrictions, controls, easements, rights of way, exceptions, reservations, leases, licenses, grants, covenants and conditions, encumbrances and security interests of any kind or nature whatsoever.

1.1.17 “**Operating Partnership**”: Safety Income and Growth Operating Partnership LP, a Delaware limited partnership.

2

---

1.1.18 “**Permitted Liens**”: (i) Liens for non-delinquent Taxes; (ii) zoning and other Laws generally applicable to the districts in which the Properties are located; (iii) easements for public utilities, encroachments, rights of access and/or other non-monetary matters that do not materially interfere with the use of the Properties; (iv) Liens arising in the ordinary course of business; (v) Liens securing indebtedness described in the Registration Statement; (vi) rights of tenants under leases and those claiming by, through or under such tenants, (vii) rights of lessors under ground and other leases of portions of the Properties; and (viii) any exceptions contained in the title policies relating to the Properties as of the Closing Date.

1.1.19 “**Properties**”: The assets of the Contributed Entities, including their right, title and interest in the Leases and the real properties listed in Exhibit C hereto; provided, however, that for the avoidance of doubt, the term Properties shall not include any buildings or other improvements or any property (real or personal), fixtures, furniture or equipment on, in, adjacent to or appurtenant to, the real properties listed in Exhibit C hereto, that are owned by the lessees under the Leases or other third parties.

1.1.20 “**Registration Statement**”: The registration statement on Form S-11 filed by Safety with the SEC registering Safety Common Stock to be sold in the IPO.

1.1.21 “**Safety**”: Safety, Income and Growth, Inc., a Maryland corporation.

1.1.22 “**Safety Common Stock**”: Common Stock, \$0.01 par value per share, of Safety.

1.1.23 “**SEC**”: The United States Securities and Exchange Commission.

1.1.24 “**Tax**”: All applicable U.S. federal, state, local and foreign income, gross receipts, property, withholding, sales, use, transfer, unclaimed property, franchise, payroll, employment, excise, stamp, environmental and other taxes, tariffs or other governmental charges of any nature whatsoever, including estimated taxes, together with penalties, interest or additions to Tax with respect thereto, whether disputed or not.

1.1.25 “**Tax Return**”: Any return, statement, schedule, declaration, claim for refund, document or form filed or required to be filed with respect to Taxes, including any amendment, attachment and supplement thereof.

1.1.26 “**Trading Day**”: A day during which trading in securities generally occurs on the New York Stock Exchange or, if the Safety Common Stock is not listed on the New York Stock Exchange, on the principal other national or regional securities exchange on which the Safety Common Stock is then listed or, if the Safety Common Stock is not listed on a national or regional securities exchange, on the principal other market on which the Safety Common Stock is then traded. If the Safety Common Stock is not so listed or traded, “Trading Day” means a Business Day.

1.1.27 “**Value**”: On any date of determination with respect to a share of Safety Common Stock, the average of the daily Market Prices (as defined below) for 10 consecutive Trading Days immediately preceding the date of determination. The term “**Market Price**” on any date shall mean the Closing Price (as defined below) for a share of Safety Common Stock on

3

---

such date. The “Closing Price” on any Trading Day shall mean the last sale price for Safety Common Stock, regular way, or, in case no such sale takes place on such Trading Day, the average of the closing bid and asked prices, regular way, in either case as reported on the principal national securities exchange on which Safety Common Stock is listed or admitted to trading or, if Safety Common Stock is not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the principal other automated quotation system that may then be in use or, if Safety Common Stock is not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in Safety Common Stock selected by the board of directors of Safety or, in the event that no trading price is available for Safety Common Stock, the fair market value of the Safety Common Stock, as determined in good faith by the board of directors of Safety.

## 1.2 **Notice Addresses:**

iStar: iStar Inc.

1114 Avenue of the Americas  
39<sup>th</sup> Floor  
New York, New York 10036

Attention: Chief Legal Officer  
Copy: General Counsel  
Telephone: 212-930-9400  
Facsimile: 212-930-9494  
E-mail: nmatis@iStar.com

Operating Partnership: Safety, Income and Growth, Inc.  
1114 Avenue of the Americas  
New York, NY 10036

Attention: Mary-Beth Roselle, Esq.  
Telephone: 212-930-9481  
Facsimile: 212-930-9494  
E-mail: mroselle@istar.com

4

---

## **ARTICLE 2**

### **REPRESENTATIONS AND WARRANTIES**

2.1 **iStar's Representations and Warranties.** iStar represents and warrants to Safety and the Operating Partnership that:

2.1.1 **Organization and Authority.** iStar and each of the Contributed Entities is validly existing, and in good standing in the state in which it was formed. At the time of the Contribution, iStar had the full right and authority, and had obtained any and all material consents required, to contribute the Contributed Interests to the Operating Partnership. iStar has the full right and authority to enter into this Agreement. This Agreement has been authorized and executed by iStar, and constitutes the valid and binding obligation of iStar, enforceable in accordance with their terms.

2.1.2 **Pending Actions.** To iStar's Knowledge, there is and has been no action or proceeding pending or threatened against iStar or relating to the Contributed Entities, the Contributed Interests or the Properties, which challenges or impairs iStar's ability to effect to Contribution or to execute and deliver this Agreement or to perform its obligations under this Agreement.

2.1.3 **Notices from Governmental Authorities.** To iStar's Knowledge, iStar has not received from any Governmental Authority written notice of any material violation of any Laws applicable (or alleged to be applicable) to the Contributed Entities, the Contributed Interests or, to the extent compliance is not the responsibility of the tenant under a Lease, the Properties, or any part thereof, that has not been corrected.

2.1.4 **Ownership of Contributed Interests.** iStar was the owner of the Contributed Interests at the time of Contribution and the transfer of the Contributed Interests to the Operating Partnership was made free and clear of any Liens (other than Permitted Liens). Except as provided for or contemplated by this Agreement or any other agreements referenced herein, there are no, and, as of the Closing, there will not be any, rights, subscriptions, warrants, options, conversion rights, preemptive rights, agreements, instruments or understandings of any kind outstanding entitling any person to acquire any equity interests in the Contributed Entities, except pursuant to Permitted Liens.

2.1.5 **Taxes.**

(a) Each Contributed Entity has timely filed all Tax Returns required to be filed by it (after giving effect to any filing extension properly granted by a Governmental Authority having authority to do so) in accordance with all applicable Laws. All such Tax Returns are correct and complete in all material respects, and each Contributed Entity has paid (or had paid on its behalf) all Taxes required to be paid by it (whether or not shown on such Tax Returns), and no deficiencies for any Taxes have been proposed, asserted or assessed in writing against any Contributed Entity, and no requests for waivers of the time to assess any such Taxes are pending and no such waivers have been granted.

(b) There are no Liens as a result of any delinquent Taxes (that are not the responsibility of tenants under the Leases) upon any of the assets of the Contributed Entities.

5

---

(c) Except as would not reasonably be expected to have an iStar Material Adverse Effect, there are no pending or, to iStar's Knowledge, threatened audits, assessments or other actions for or relating to a liability in respect of income or non-income Taxes of any Contributed Entity.

(d) Each Contributed Entity is classified as a partnership for U.S. federal income tax purposes.

2.1.6 **No Violation.** None of the Contribution, or the execution, delivery or performance of this Agreement, any agreement contemplated hereby between the parties to this Agreement and the transactions contemplated hereby between the parties to this Agreement does or will, with or without the giving of notice, lapse of time, or both, violate, conflict with, result in a breach of, or constitute a default under or give to others any right of termination, acceleration, cancellation or other right under, (a) the organizational documents of iStar or any Contributed Entity, (b) any agreement, document or instrument to which iStar or any Contributed Entity is a party or by which iStar or any Contributed Entity are bound or (c) any term or provision of any judgment, order, writ, injunction, or decree binding on iStar or any Contributed Entity (or its Properties), except, in the case of clause (b) and (c), any such breaches or defaults that would not reasonably be expected to have an iStar Material Adverse Effect.

2.1.7 **Solvency.** iStar has been solvent at all times prior to the Contribution. No bankruptcy or similar insolvency proceeding has been filed or is currently contemplated by any Contributed Entity.

2.1.8 **Properties.**

(a) The real Properties listed on Exhibit C are owned directly, in fee simple, by the Contributed Entities shown on such Exhibit or their direct or indirect wholly owned subsidiaries, except that a portion of the Doubletree Seattle Airport Property is leased to the Contributed Entity that owns such Property as described in the Registration Statement. Each Contributed Entity is insured under a policy of title insurance as the owner of the fee simple or leasehold estate of such real Property, in each case free and clear of all Liens except for Permitted Liens. Prior to the Closing Date, iStar shall not take or omit to take any action to cause any Lien to attach to any Contributed Interests or any Property, except for Permitted Liens.

(b) Except for matters that would not, individually or in the aggregate, have an iStar Material Adverse Effect, (i) no Contributed Entity and no other party to a Lease has given or received any notice of default with respect to any term or condition of any such Lease that remains uncured, which default, if not timely cured, would permit, subject to expiration of applicable cure periods, application of leasehold mortgagee cure rights and giving of required notices, termination of the related Lease, set off of material amounts under the related Lease or, in the case of a default by the tenant, termination of the tenant's right to possession of the related leased premises, (ii) no event has occurred or has been threatened in writing, which with or without the passage of time or the giving of notice, or both, would, individually or together with all such other events, constitute a default under any Lease that, if not timely cured would permit, subject to expiration of applicable cure periods, application of leasehold mortgagee cure rights and giving of required notices, termination of the related Lease, set off of material amounts under the related Lease or, in the case of a default by the tenant, termination of the tenant's right to possession of the related leased premises, or would, individually or together with all such

6

---

other events, reasonably be expected to cause the acceleration of any material obligation of any party thereto or the creation of a Lien upon any asset of any Contributed Entity, except for Permitted Liens, and (iii) each of the Leases is in full force and effect, and constitutes the legal, valid and binding obligation of the applicable Contributed Entity, and to iStar's Knowledge, each other party thereto, enforceable against each Contributed Entity, and to iStar's Knowledge, each other party thereto, in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). Except as set forth in the Leases, no Contributed Entity has granted an option or right of first refusal or offer pursuant to the Leases with respect to the sale of any Property.

(c) To iStar's Knowledge, except as previously disclosed to Safety or the Operating Partnership, no tenant under a Lease is presently the subject of any voluntary or involuntary bankruptcy or insolvency proceedings, except for matters that would not, individually or in the aggregate, reasonably be expected to have an iStar Material Adverse Effect.

2.1.9 **Environmental Matters.** Except for matters that would not, individually or in the aggregate, reasonably be expected to have an iStar Material Adverse Effect (a) each Contributed Entity is in compliance with all applicable Environmental Laws, (b) neither iStar nor any Contributed Entity has received within the past three years any written notice from any Governmental Authority or third party alleging that any Contributed Entity or Property is not in compliance with applicable Environmental Laws, and (c) there has not been a release of Hazardous Materials on any Property that would require investigation or remediation under applicable Environmental Laws. The representations and warranties contained in this Section 2.1.9 constitute the sole and exclusive representations and warranties made by iStar concerning environmental matters.

2.1.10 **Broker.** None of iStar or any Contributed Entity, or any of their managing members, members, partners, general partners, officers directors or employees, to the extent applicable, has entered into any agreement with any broker, finder, or similar agent of any person or firm that will result in the obligation of Safety, the Operating Partnership or any of their affiliates to pay any finder's fees, brokerage fees or commissions or similar payment in connection with the Contribution or the transactions contemplated by this Agreement.

IN NO EVENT SHALL ISTAR'S DIRECT OR INDIRECT PARTNERS, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS OR AFFILIATES, ANY OFFICER, MANAGER, DIRECTOR, EMPLOYEE OR AGENT OF THE FOREGOING, OR ANY AFFILIATE OR CONTROLLING PERSON THEREOF HAVE ANY LIABILITY FOR ANY CLAIM, CAUSE OF ACTION OR OTHER LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROPERTIES, WHETHER BASED ON CONTRACT, COMMON LAW, STATUTE, EQUITY OR OTHERWISE, OTHER THAN SAFETY'S AND THE OPERATING PARTNERSHIP'S LIABILITIES FOR BREACH OF THIS AGREEMENT.

2.1.11 **No Other Representations or Warranties.** Other than the representations and warranties expressly set forth in this Article 2, iStar shall not be deemed to

7

---

have made any other representation or warranty to Safety or the Operating Partnership in connection with the Contribution, this Agreement or the transactions contemplated hereby.

2.2 **Safety and Operating Partnership's Representations and Warranties.** Safety and the Operating Partnership, jointly and severally, represent and warrant to iStar that:

2.2.1 **Organization and Authority.** The Operating Partnership is validly existing as a limited liability in good standing in the State of Delaware. Safety is validly existing as a corporation in good standing under the laws of Maryland. The Operating Partnership has the full right and authority and has obtained any and all consents required to enter into this Agreement. This Agreement has been authorized and properly executed by the Operating Partnership, and constitutes, as appropriate, the valid and binding obligation of the Operating Partnership, enforceable in accordance with their terms.

2.2.2 **Pending Actions.** To Safety's and the Operating Partnership's Knowledge, there is no action or proceeding pending or threatened against Safety or the Operating Partnership which challenges or impairs Safety's or the Operating Partnership's ability to execute or perform its obligations under this Agreement.

IN NO EVENT SHALL SAFETY'S OR THE OPERATING PARTNERSHIP'S DIRECT OR INDIRECT PARTNERS, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS OR AFFILIATES, ANY OFFICER, MANAGER, DIRECTOR, EMPLOYEE OR AGENT OF THE FOREGOING,

OR ANY AFFILIATE OR CONTROLLING PERSON THEREOF HAVE ANY LIABILITY FOR ANY CLAIM, CAUSE OF ACTION OR OTHER LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE CONTRIBUTED ENTITY INTERESTS OR THE PROPERTIES, WHETHER BASED ON CONTRACT, COMMON LAW, STATUTE, EQUITY OR OTHERWISE, OTHER THAN ISTAR'S LIABILITIES FOR ITS BREACH OF THIS AGREEMENT.

### **ARTICLE 3** **SURVIVAL; INDEMNITY**

3.1 **Survival of Representations, Warranties and Covenants.** The representations and warranties set forth in Article 2 are made as of the Effective Date and the Closing Date, and shall not be deemed to be merged into or waived by the instruments of Closing, but shall survive the Closing for a period of 12 months (the "**Survival Period**"). All covenants set forth in this Agreement shall survive the Closing indefinitely and shall not be deemed to be merged into or waived by the instruments of Closing. Terms such as "to iStar's Knowledge," "to the best of iStar's Knowledge" or like phrases mean the actual knowledge of Jay Sugarman, Nina Matis and Geoffrey Jervis ("**iStar's Representatives**"), without any duty of inquiry or investigation; provided that so qualifying iStar's knowledge shall in no event give rise to any personal liability on the part of iStar's Representatives, or any of them, or any other officer or employee of iStar, on account of any breach of any representation or warranty made by iStar herein. Said terms do not include constructive knowledge, imputed knowledge, or knowledge iStar or such persons do not have but could have obtained through further investigation or inquiry. No broker, agent, or party other than iStar is authorized to make any representation or warranty for or on behalf of iStar. Each party shall have the right to bring an action against the other on the breach of a

8

---

representation or warranty or covenant hereunder or in the documents delivered by iStar at the Closing, but only on the following conditions: (1) the party bringing the action for breach first learns of the breach after Closing and, in the case of a claim for breach of representatives or warranties, files such action within the Survival Period and (2) neither party shall have the right to bring a cause of action for a breach of a representation or warranty or covenant unless the damage to such party on account of such breach (individually or when combined with damages from other breaches) equals or exceeds the greater of (a) 4.5% of the indemnity cap or (b) \$250,000, and then only to the extent of such excess. Neither party shall have any liability after Closing for the breach of a representation or warranty or covenant hereunder of which the other party hereto had knowledge as of Closing. Notwithstanding any other provision of this Agreement, any agreement contemplated by this Agreement, or any rights which Safety, the Operating Partnership might otherwise have at law, equity, or by statute, whether based on contract or some other claim, Safety, the Operating Partnership agree that: (i) any liability of iStar to Safety, the Operating Partnership and their affiliates will be limited to \$5,100,000; and (ii) iStar may satisfy any liability to Safety, the Operating Partnership and their affiliates in full by delivering (a) a number of shares of Safety Common Stock equal to the total liability of iStar divided by the Value of the Safety Common Stock on the date that is three Trading Days prior to, but excluding, the date on which Safety and the Operating Partnership notified iStar in writing of the claims that resulted in the liability; (b) a cash lump sum; or (c) a combination of cash and Safety Common Stock valued in accordance with subclause (a). In no event shall either party be liable to the other party for incidental, consequential, or punitive damages as a result of the breach of any or all representations or warranties set forth in this Agreement. The provisions of this Section 3.1 shall survive the Closing.

3.2 **Survival.** The terms and conditions of this Article 3 shall expressly survive the Closing, and shall not merge with the provisions of any closing documents.

Safety and the Operating Partnership acknowledge and agree that the disclaimers and other agreements set forth herein are an integral part of this Agreement and that iStar would not have agreed to the Contribution and the other transactions contemplated hereby without the disclaimers and other agreements set forth herein.

9

---

### **ARTICLE 4** **MISCELLANEOUS**

4.1 **Parties Bound; Assignment.** This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto. Safety and the Operating Partnership may assign their rights under this Agreement upon the following conditions: (a) the assignee must be an entity controlling, controlled by, or under common control with Safety, (b) the assignee shall assume all obligations of Safety and the Operating Partnership hereunder, but Safety and the Operating Partnership shall remain, jointly and severally, primarily liable for the performance of their obligations, and (c) a copy of the fully executed written assignment and assumption agreement shall be delivered to iStar at least five (5) Business Days prior to Closing.

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

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

4.4 **Governing Law.** This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws of the state New York.

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

4.6 **Entirety and Amendments.** This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against

whom enforcement is sought. All Exhibits hereto are incorporated herein by this reference for all purposes.

4.7 **Notices.** All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Section 1.2. Any such notices shall, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (b) by overnight delivery using a nationally recognized overnight courier, (c) by personal delivery, or (d) by facsimile transmission during normal business hours with a confirmation copy delivered by another method permitted under this Section 4.7. Notice given

in accordance herewith for all permitted forms of notice other than by electronic mail, shall be effective upon the earlier to occur of actual delivery to the address of the addressee or refusal of receipt by the addressee. Except for facsimile notices as described above, no notice hereunder shall be effective if sent or delivered by electronic means. In no event shall this Agreement be altered, amended or modified by electronic mail or electronic record. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to Safety and the Operating Partnership shall be deemed given by Safety and the Operating Partnership and notices given by counsel to the iStar shall be deemed given by iStar.

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

4.9 **Calculation of Time Periods; Business Day.** Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is a Business Day. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. local time in the state in which the Property is located.

4.10 **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement.

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

4.12 **No Third Party Beneficiary.** The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of iStar, Safety and the Operating Partnership only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

**SIGNATURE PAGE TO INITIAL PORTFOLIO AGREEMENT  
BY AND AMONG  
iSTAR INC.,  
SAFETY, INCOME AND GROWTH, INC.  
AND  
SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP**

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

**iSTAR INC.:**

Date  
June 27, 2017

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Title: Chief Operating Officer & Chief Financial Officer

**SAFETY, INCOME AND GROWTH, INC.**

Date  
June 27, 2017

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Title: Chief Operating Officer & Chief Financial Officer

**SAFETY INCOME AND  
GROWTH OPERATING PARTNERSHIP LP:**  
By: SIGOP GenPar LLC,

Date  
June 27, 2017

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Title: Chief Operating Officer & Chief Financial Officer

*Signature Page to Initial Portfolio Agreement*

---

**LIST OF EXHIBITS AND SCHEDULES**

- A – Contributed Entities
  - B – Leases
  - C – Properties
- 

**EXHIBIT A**

**Contributed Entities**

**(Attached)**

A-1

---

**EXHIBIT B**

**Leases**

**(Attached)**

B-1

---

**EXHIBIT C**

**Real Properties**

**(Attached)**

C-1

---



**PURCHASE OPTION AGREEMENT**

THIS **PURCHASE OPTION AGREEMENT** is dated as of June 27, 2017 by and between iStar Inc., having an address at 1114 Avenue of the Americas, 39<sup>th</sup> Floor, New York, NY 10036 ("**Optionor**") and Safety Income and Growth Operating Partnership LP, a Delaware limited partnership, having an address at c/o SFTY Manager LLC, 1114 Avenue of the Americas, 39<sup>th</sup> Floor, New York, NY 10036 ("**Optionee**").

WHEREAS, Optionor is the direct or indirect owner of iStar Sunnyvale Partnership, L.P., a Delaware limited liability company ("**Sunnyvale SPE**");

WHEREAS, Sunnyvale SPE and Graymark Capital, Inc., a California corporation ("**Graymark**") have executed a Letter of Intent dated as of February 13, 2017 ("**LOI**"), relative to the acquisition by Graymark of certain improvements on and a ground lease interest as a tenant ("**Premises**") in certain real property located at 1050, 1060, 1070/1080, and 1090 East Arques, Sunnyvale, CA ("**Property**"); and

WHEREAS, Optionor desires to grant Optionee an irrevocable option to purchase Optionor's ownership interest in Sunnyvale SPE upon the terms set forth herein.

NOW, THEREFORE, in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Optionor and Optionee agree:

1. Optionor hereby grants to Optionee an irrevocable option (the "**Option**") to purchase Optionor's direct and indirect ownership interest in Sunnyvale SPE ("**Interest**") following the acquisition of the Premises by Graymark. The Option shall be exercisable in the manner and upon the terms and provisions set forth in this Agreement.
2. The Option may be exercised by Optionee on or before the twelfth (12<sup>th</sup>) month anniversary of acquisition of the Premises, by written notice delivered to Optionor at the address set forth above (the "**Option Notice**").
3. If Optionee exercises the Option, Optionor shall convey the Interest to Optionee or its designee (the "**Transferee**"), free of liens, claims, or encumbrances, within [twenty (20) days] from and after Optionor's receipt of the Option Notice. At the time that Optionor shall convey the Interest to Transferee ("**Closing**"), the Premises shall be free from all mortgages and other liens and otherwise in marketable condition, subject only to those other liens, if any, in existence on the date hereof.
4. At Closing, Transferee shall pay to Optionee the sum of Thirty-five Million and no/100 Dollars for the Interest ("**Purchase Price**") in cash; provided, however, that by mutual agreement of the parties, the Optionor may pay the Purchase Price in whole or in part with shares of common stock, \$.01 par value per share, of Safety, Income and Growth, Inc. ("**REIT Shares**") or units of limited partnership of Optionor ("**OP Units**"). For purposes of the foregoing, each REIT Share or OP Unit delivered in satisfaction of the Purchase Price shall be valued at its average "**Market Price**," as such term is defined in Optionor's First Amended and Restated Agreement of Limited Partnership, dated as of the date hereof, for the 10 trading days immediately preceding, but excluding, the date of the Option Notice. Transferee shall pay all reasonable legal costs, recording costs and any transfer taxes resulting from the transfer of the Interest.

5. Optionor agrees that until the time to exercise the Option has expired without Optionee's exercise of the Option, Optionor, without Optionee's prior written consent, i) shall not transfer, sell, pledge, or encumber its interest in the Interest; and ii) shall not and shall direct Sunnyvale SPE to not, except in connection with the sale of the Premises to Graymark, sell or transfer any rights in or to the Property, subject the Premises to any lien, easement or restriction, adversely affect or limit any rights benefiting the Property, or otherwise take any action which would adversely affect the value, use or development of the Property.

6. Optionor and Optionee may assign this Agreement to any wholly-owned subsidiary without consent of the other party and in such event all other terms of this Agreement shall remain in full force and effect. Any assignee must irrevocably consent and agree to be bound by all terms of this Agreement.

7. Any change or modification to this Agreement, in order to become effective, must be in writing and signed by Optionor and Optionee.
8. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements regarding the sale of the Interest.
9. This Agreement shall be governed by and interpreted in accordance with the laws of New York.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**OPTIONOR:**

iStar Inc., a Maryland corporation

By: /s/ Geoffrey G. Jervis  
 Name: Geoffrey G. Jervis  
 Its: Chief Operating Officer & Chief Financial Officer

**OPTIONEE:**

Safety Income and Growth Operating Partnership LP, a Delaware limited partnership

By: /s/ Geoffrey G. Jervis  
Name: Geoffrey G. Jervis  
Its: Chief Operating Officer & Chief Financial Officer

## ASSIGNMENT, ASSUMPTION AND MEMBERSHIP INTEREST TRANSFER AGREEMENT

This Assignment, Assumption and Membership Interest Transfer Agreement (this “Agreement”), dated as of June 27, 2017 (the “Effective Date”), is entered into by and between iSTAR REO HOLDINGS TRS LLC, Delaware limited liability company (“Seller”), and SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP, a Delaware limited partnership (“Purchaser”). Seller and Purchaser are sometimes collectively referred to herein individually as a “Party” and collectively as the “Parties.”

### RECITALS

**WHEREAS**, Seller is a party (by assignment from iStar) to the Agreement of Purchase and Sale and Joint Escrow Instructions (the “Purchase Agreement”), dated May 24, 2017, between iStar, Inc. (“iStar”) and Future Hollywood, LLC (“Future”), pursuant to which, Seller has agreed to purchase the Property, as such term is defined in the Purchase Agreement;

**WHEREAS**, in connection with the closing of the initial public offering of Safety, Income and Growth, Inc., the ultimate parent of the Purchaser (“Safety”), Seller desires to assign, and Purchaser desires to assume, all of Seller’s right, title and interest in, to and under the Purchase Agreement, on the terms set forth herein;

**WHEREAS**, if, on or before the date of this Agreement, Seller has acquired the Property under the Purchase Agreement, then in addition to assigning all of Seller’s right, title and interest in, to and under the Purchase Agreement to Purchaser, Seller will also transfer to Purchaser (x) one hundred percent (100%) of the limited partnership interest (the “LP Interest”) in 62 Hundred Hollywood North LP (“LP”), a subsidiary of Seller that will be the owner of the Property immediately prior to such transfer, and (y) one hundred percent (100%) of the membership interest (the “Membership Interest”) of 62 Hundred Hollywood N GenPar LLC, a Delaware limited liability company that is the sole general partner in LP (“GenPar”). LP Interest and Membership Interest shall be collectively referred to as “Seller’s Interests”; and

**WHEREAS**, each of the Parties desires to set forth certain representations, warranties, and covenants and to establish certain closing conditions to induce the other Party to execute and deliver this Agreement and to consummate the transactions contemplated hereby.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties hereby agree as follows:

### **ARTICLE 1: GENERAL**

Section 1.01 Defined Terms. Any capitalized term not defined herein shall have the meaning ascribed to such term in the Initial Portfolio Agreement dated the date hereof among iStar, Safety and Purchaser.

1

---

### **ARTICLE 2: ASSIGNMENT AND ASSUMPTION; TRANSFER OF SELLER’S INTERESTS**

Section 2.01 Assignment and Assumption. Effective as of the Closing, Seller assigns to Purchaser, and Purchaser assumes from Seller, all of Seller’s right, title and interest in, to and under the Purchase Agreement.

Section 2.02. Transfer of Seller’s Interests. If, on or before the date of this Agreement, LP has acquired the Property, then Seller shall transfer, sell, convey and deliver to Purchaser all of its right, title and interest in and to Seller’s Interests at the Closing.

Section 2.03 Purchase Price. The aggregate purchase price (the “Purchase Price”) to be paid by Purchaser to Seller at the Closing is \$68,360,000.00.

Section 2.04 Closing Date. The closing of the transactions (the “Closing”) provided for in this Agreement shall take place simultaneously with the execution of this Agreement (the “Closing Date”).

Section 2.05 Closing Obligations.

(a) At Closing, (1) Purchaser shall deliver, or cause to be delivered, the Purchase Price which shall be payable by wire transfer of immediately available funds to an account designated by Seller, and a written instrument in form and substance reasonably satisfactory to Seller and signed by Purchaser, pursuant to which Purchaser assumes all of Seller’s right, title and interest in, to and under the Purchase Agreement, (2) Seller shall deliver to Purchaser a written instrument in form and substance reasonably satisfactory to Purchaser and signed by Seller, pursuant to which Seller assigns to Purchaser all of Seller’s right, title and interest in, to and under the Purchase Agreement and (3) if Seller is required to transfer Seller’s Interests to Purchaser pursuant to Section 2.03, Seller shall also transfer to Purchaser Seller’s Interests by one or more written assignments in form and substance reasonably satisfactory to Purchaser.

(b) Following the Closing, Seller shall execute and deliver to Purchaser such documents and instruments of conveyance as may be appropriate and shall take or cause to be taken such reasonable actions as Purchaser may from time to time reasonably request in order to accomplish the assignment of Seller’s rights under the Purchase Agreement to Purchaser and, if applicable, the transfer of Seller’s Interests from Seller to Purchaser.

### **ARTICLE 3. REPRESENTATIONS AND WARRANTIES**

Section 3.01 Representations and Warranties of Seller. As a material inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated hereby, Seller hereby represents and warrants to Purchaser as follows:

(a) Organization and Authority. Each of Seller, GenPar and LP are validly existing, and in good standing in the state in which it was formed. Seller has the full right and authority and has obtained any and all material consents required, to enter into this

Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement and all of the documents to be delivered by Seller at the Closing have been authorized and executed and constitute, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

(b) Pending Actions. There is no action or proceeding pending or threatened against Seller, Gen Par or LP or relating to Seller's Interests or which challenges or impairs Seller's ability to execute and deliver this Agreement or to perform its obligations under this Agreement.

(c) Notices from Governmental Authorities. Seller has not received from any governmental authority written notice of any material violation of any Laws applicable (or alleged to be applicable) to GenPar, LP or Seller's Interests that has not been corrected.

(d) Ownership of Seller's Interests. Seller is the owner of the Seller's Interests and the transfer of the Seller's Interests to Purchaser shall be made free and clear of any Liens (other than Permitted Liens). Except as provided for or contemplated by this Agreement or any other agreements referenced herein, there are no, and, as of the Closing, there will not be any, rights, subscriptions, warrants, options, conversion rights, preemptive rights, agreements, instruments or understandings of any kind outstanding entitling any Person to acquire any equity interests in Seller's Interests, except pursuant to Permitted Liens.

(e) Violation. Neither the execution, delivery or performance of this Agreement, any agreement contemplated hereby between the Parties and the transactions contemplated hereby between the Parties does or will, with or without the giving of notice, lapse of time, or both, violate, conflict with, result in a breach of, or constitute a default under or give to others any right of termination, acceleration, cancellation or other right under, (a) the organizational documents of Seller, GenPar, or LP, (b) any agreement, document or instrument to which any of Seller, GenPar, or LP is a party or by which any of Seller, GenPar, or LP is bound or (c) any term or provision of any judgment, order, writ, injunction, or decree binding on any of Seller, GenPar, or LP (or its assets or properties), except, in the case of clause (b) and (c), any such breaches or defaults that would not reasonably be expected to have a Seller Material Adverse Effect. For purposes hereof, a "Seller Material Adverse Effect" shall mean a material adverse effect on the assets, business, financial condition or results of operation of Seller and its consolidated subsidiaries, taken as a whole.

(f) Taxes.

A. Each of Seller, GenPar, and LP have timely filed all Tax Returns required to be filed by it (after giving effect to any filing extension properly granted by a Governmental Authority having authority to do so) in accordance with all applicable Laws. All such Tax Returns are correct and complete in all material respects, and each of

Seller, GenPar, and LP have paid (or had paid on its behalf) all Taxes required to be paid by it (whether or not shown on such Tax Returns), and no deficiencies for any Taxes have been proposed, asserted or assessed in writing against any of Seller, GenPar, and LP, and no requests for waivers of the time to assess any such Taxes are pending and no such waivers have been granted.

(g) Solvency. Seller has been and will be solvent at all times prior to the the Closing Date. No bankruptcy or similar insolvency proceeding has been filed or is currently contemplated by Seller, GenPar, or LP.

(i) Broker. None of Seller, GenPar, or LP has entered into any agreement with any broker, finder, or similar agent of any Person or firm that will result in the obligation of Purchaser to pay any finder's fees, brokerage fees or commissions or similar payment in connection with the transactions contemplated by this Agreement.

(j) No Other Representations or Warranties. Other than the representations and warranties expressly set forth in this Article 3, Seller shall not be deemed to have made any other representation or warranty in connection with this Agreement.

Section 3.02 Representations and Warranties of Purchaser. As a material inducement to Seller to enter into this Agreement and to consummate the transactions contemplated hereby, Purchaser hereby represents and warrants to Seller as of the Closing Date as follows:

(a) Organization and Authority. Purchaser has all requisite power and authority to own, lease or operate its property and to carry on its business as presently conducted and, to the extent required under applicable law, is qualified to do business and is in good standing in each jurisdiction in which the nature of its business or the character of its property make such qualification necessary. The execution, delivery and performance of this Agreement by Purchaser has been duly and validly authorized by all necessary action of Purchaser. This Agreement, when executed and delivered, will constitute the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency and debtors' relief or the application of equitable principles.

(b) No Consents. No consents, authorizations or approvals of any third parties including, but not limited to, any action, approval, consent or authorization by any third party, financial institution, governmental or quasi-governmental agency, commission, board, bureau or instrumentality or any members or managers of any company, are required in connection with the execution, delivery or performance of this Agreement by Purchaser or the consummation of the transactions contemplated by this Agreement. Purchaser has made, or shall make, simultaneously with the Closing, all registrations or filings with any governmental authority required for the execution or delivery of this Agreement or the consummation of the transactions contemplated hereby.

#### ARTICLE 4. SURVIVAL

Section 4.01. Survival of Representations, Warranties and Covenants. The representations and warranties of Seller set forth in Section 3.01 are made as of the Effective Date and the Closing Date, and shall not be deemed to be merged into or waived by the instruments of Closing, but shall survive the Closing for a period of 12 months (the "Survival Period"). All covenants set forth in this Agreement shall survive the Closing indefinitely and shall not be deemed to be merged into or waived by the instruments of Closing. Each party shall have the right to bring an action against the other on the breach of a representation or warranty or covenant hereunder or in the documents delivered by Seller at the Closing, but only on the following conditions: (1) the party bringing the action for breach first learns of the breach after Closing and, in the case of a claim for breach of representations or warranties, files such action within the Survival Period and (2) neither party shall have the right to bring a cause of action for a breach of a representation or warranty or covenant unless the damage to such party on account of such breach (individually or when combined with damages from other breaches) equals or exceeds \$250,000, and then only to the extent of such excess. Neither party shall have any liability after Closing for the breach of a representation or warranty or covenant hereunder of which the other party hereto had knowledge as of Closing. In no event shall either party be liable to the other party for incidental, consequential, or punitive damages as a result of the breach of any or all representations or warranties set forth in this Agreement. The provisions of this Section 4.01 shall survive the Closing.

#### ARTICLE 5. MISCELLANEOUS

Section 5.01. Parties Bound; Assignment. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto.

Section 5.02. Headings. The article, section, subsection, paragraph and/or other headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

Section 5.03. Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and, to the greatest extent legally possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future.

Section 5.04. Governing Law. This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws of the state New York.

Section 5.05. Survival. The provisions of this Agreement that contemplate performance after the Closing and the obligations of the parties not fully performed at the Closing (other than any unfulfilled closing conditions which have been waived or deemed waived by the other party)

5

---

shall survive the Closing and shall not be deemed to be merged into or waived by the instruments of Closing.

Section 5.06. Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Real Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought. All Exhibits hereto are incorporated herein by this reference for all purposes.

Section 5.07. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth below. Any such notices shall, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (b) by overnight delivery using a nationally recognized overnight courier, or (c) by personal delivery. Notice given in accordance herewith for all permitted forms of notice other than by electronic mail, shall be effective upon the earlier to occur of actual delivery to the address of the addressee or refusal of receipt by the addressee. Except for facsimile notices as described above, no notice hereunder shall be effective if sent or delivered by electronic means. In no event shall this Agreement be altered, amended or modified by electronic mail or electronic record. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

Seller: iStar REO Holdings TRS LLC  
c/o iStar Inc.  
1114 Avenue of the Americas  
39th Floor  
New York, New York 10036  
Attention: Chief Legal Officer  
Copy: General Counsel  
Telephone: 212-930-9400  
Facsimile: 212-930-9494  
E-mail: nmatis@iStar.com

Purchaser: Safety Income and Growth Operating Partnership LP  
c/o iStar Inc.  
1114 Avenue of the Americas  
New York, NY 10036  
Attention: Mary-Beth Roselle, Esq.  
Telephone: 212-930-9481  
Facsimile: 212-930-9494  
E-mail: mroselle@istar.com

6

Section 5.08. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement.

Section 5.09. No Third Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

7

---

**SIGNATURE PAGE TO ASSIGNMENT, ASSUMPTION AND MEMBERSHIP INTEREST TRANSFER AGREEMENT  
BY AND BETWEEN iSTAR REO HOLDINGS TRS LLC  
AND  
SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP**

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

**iSTAR REO HOLDINGS TRS LLC**, a Delaware limited liability company

Date

By: /s/ Geoffrey G. Jervis

June 27, 2017

Name: Geoffrey G. Jervis

Title: Chief Operating Officer & Chief Financial Officer

**SAFETY INCOME AND GROWTH PARTNERSHIP LP**, a Delaware limited partnership

Date

By: /s/ Geoffrey G. Jervis

June 27, 2017

Name: Geoffrey G. Jervis

Title: Chief Operating Officer & Chief Financial Officer

*[Signature Page to Assignment and  
Transfer Agreement - South]*

---

## ASSIGNMENT, ASSUMPTION AND MEMBERSHIP INTEREST TRANSFER AGREEMENT

This Assignment, Assumption and Membership Interest Transfer Agreement (this “Agreement”), dated as of June 27, 2017 (the “Effective Date”), is entered into by and between iSTAR REO HOLDINGS TRS LLC, Delaware limited liability company (“Seller”), and SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP, a Delaware limited partnership (“Purchaser”). Seller and Purchaser are sometimes collectively referred to herein individually as a “Party” and collectively as the “Parties.”

### RECITALS

**WHEREAS**, Seller is a party (by assignment from iStar) to the Agreement of Purchase and Sale and Joint Escrow Instructions (the “Purchase Agreement”), dated May 24, 2017, between iStar, Inc. (“iStar”) and Future Hollywood, LLC (“Future”), pursuant to which, Seller has agreed to purchase the Property, as such term is defined in the Purchase Agreement;

**WHEREAS**, in connection with the closing of the initial public offering of Safety, Income and Growth, Inc., the ultimate parent of the Purchaser (“Safety”), Seller desires to assign, and Purchaser desires to assume, all of Seller’s right, title and interest in, to and under the Purchase Agreement, on the terms set forth herein;

**WHEREAS**, if, on or before the date of this Agreement, Seller has acquired the Property under the Purchase Agreement, then in addition to assigning all of Seller’s right, title and interest in, to and under the Purchase Agreement to Purchaser, Seller will also transfer to Purchaser (x) one hundred percent (100%) of the limited partnership interest (the “LP Interest”) in 62 Hundred Hollywood South LP (“LP”), a subsidiary of Seller that will be the owner of the Property immediately prior to such transfer, and (y) one hundred percent (100%) of the membership interest (the “Membership Interest”) of 62 Hundred Hollywood S GenPar LLC, a Delaware limited liability company that is the sole general partner in LP (“GenPar”). LP Interest and Membership Interest shall be collectively referred to as “Seller’s Interests”; and

**WHEREAS**, each of the Parties desires to set forth certain representations, warranties, and covenants and to establish certain closing conditions to induce the other Party to execute and deliver this Agreement and to consummate the transactions contemplated hereby.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties hereby agree as follows:

### **ARTICLE 1: GENERAL**

Section 1.01 Defined Terms. Any capitalized term not defined herein shall have the meaning ascribed to such term in the Initial Portfolio Agreement dated the date hereof among iStar, Safety and Purchaser.

1

---

### **ARTICLE 2: ASSIGNMENT AND ASSUMPTION; TRANSFER OF SELLER’S INTERESTS**

Section 2.01 Assignment and Assumption. Effective as of the Closing, Seller assigns to Purchaser, and Purchaser assumes from Seller, all of Seller’s right, title and interest in, to and under the Purchase Agreement.

Section 2.02. Transfer of Seller’s Interests. If, on or before the date of this Agreement, LP has acquired the Property, then Seller shall transfer, sell, convey and deliver to Purchaser all of its right, title and interest in and to Seller’s Interests at the Closing.

Section 2.03 Purchase Price. The aggregate purchase price (the “Purchase Price”) to be paid by Purchaser to Seller at the Closing is \$73,640,000.00.

Section 2.04 Closing Date. The closing of the transactions (the “Closing”) provided for in this Agreement shall take place simultaneously with the execution of this Agreement (the “Closing Date”).

Section 2.05 Closing Obligations.

(a) At Closing, (1) Purchaser shall deliver, or cause to be delivered, the Purchase Price which shall be payable by wire transfer of immediately available funds to an account designated by Seller, and a written instrument in form and substance reasonably satisfactory to Seller and signed by Purchaser, pursuant to which Purchaser assumes all of Seller’s right, title and interest in, to and under the Purchase Agreement, (2) Seller shall deliver to Purchaser a written instrument in form and substance reasonably satisfactory to Purchaser and signed by Seller, pursuant to which Seller assigns to Purchaser all of Seller’s right, title and interest in, to and under the Purchase Agreement and (3) if Seller is required to transfer Seller’s Interests to Purchaser pursuant to Section 2.03, Seller shall also transfer to Purchaser Seller’s Interests by one or more written assignments in form and substance reasonably satisfactory to Purchaser.

(b) Following the Closing, Seller shall execute and deliver to Purchaser such documents and instruments of conveyance as may be appropriate and shall take or cause to be taken such reasonable actions as Purchaser may from time to time reasonably request in order to accomplish the assignment of Seller’s rights under the Purchase Agreement to Purchaser and, if applicable, the transfer of Seller’s Interests from Seller to Purchaser.

### **ARTICLE 3. REPRESENTATIONS AND WARRANTIES**

Section 3.01 Representations and Warranties of Seller. As a material inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated hereby, Seller hereby represents and warrants to Purchaser as follows:

(a) Organization and Authority. Each of Seller, GenPar and LP are validly existing, and in good standing in the state in which it was formed. Seller has the full right and authority and has obtained any and all material consents required, to enter into this

Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement and all of the documents to be delivered by Seller at the Closing have been authorized and executed and constitute, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

(b) Pending Actions. There is no action or proceeding pending or threatened against Seller, Gen Par or LP or relating to Seller's Interests or which challenges or impairs Seller's ability to execute and deliver this Agreement or to perform its obligations under this Agreement.

(c) Notices from Governmental Authorities. Seller has not received from any governmental authority written notice of any material violation of any Laws applicable (or alleged to be applicable) to GenPar, LP or Seller's Interests that has not been corrected.

(d) Ownership of Seller's Interests. Seller is the owner of the Seller's Interests and the transfer of the Seller's Interests to Purchaser shall be made free and clear of any Liens (other than Permitted Liens). Except as provided for or contemplated by this Agreement or any other agreements referenced herein, there are no, and, as of the Closing, there will not be any, rights, subscriptions, warrants, options, conversion rights, preemptive rights, agreements, instruments or understandings of any kind outstanding entitling any Person to acquire any equity interests in Seller's Interests, except pursuant to Permitted Liens.

(e) Violation. Neither the execution, delivery or performance of this Agreement, any agreement contemplated hereby between the Parties and the transactions contemplated hereby between the Parties does or will, with or without the giving of notice, lapse of time, or both, violate, conflict with, result in a breach of, or constitute a default under or give to others any right of termination, acceleration, cancellation or other right under, (a) the organizational documents of Seller, GenPar, or LP, (b) any agreement, document or instrument to which any of Seller, GenPar, or LP is a party or by which any of Seller, GenPar, or LP is bound or (c) any term or provision of any judgment, order, writ, injunction, or decree binding on any of Seller, GenPar, or LP (or its assets or properties), except, in the case of clause (b) and (c), any such breaches or defaults that would not reasonably be expected to have a Seller Material Adverse Effect. For purposes hereof, a "Seller Material Adverse Effect" shall mean a material adverse effect on the assets, business, financial condition or results of operation of Seller and its consolidated subsidiaries, taken as a whole.

(f) Taxes.

A. Each of Seller, GenPar, and LP have timely filed all Tax Returns required to be filed by it (after giving effect to any filing extension properly granted by a Governmental Authority having authority to do so) in accordance with all applicable Laws. All such Tax Returns are correct and complete in all material respects, and each of

Seller, GenPar, and LP have paid (or had paid on its behalf) all Taxes required to be paid by it (whether or not shown on such Tax Returns), and no deficiencies for any Taxes have been proposed, asserted or assessed in writing against any of Seller, GenPar, and LP, and no requests for waivers of the time to assess any such Taxes are pending and no such waivers have been granted.

(g) Solvency. Seller has been and will be solvent at all times prior to the the Closing Date. No bankruptcy or similar insolvency proceeding has been filed or is currently contemplated by Seller, GenPar, or LP.

(i) Broker. None of Seller, GenPar, or LP has entered into any agreement with any broker, finder, or similar agent of any Person or firm that will result in the obligation of Purchaser to pay any finder's fees, brokerage fees or commissions or similar payment in connection with the transactions contemplated by this Agreement.

(j) No Other Representations or Warranties. Other than the representations and warranties expressly set forth in this Article 3, Seller shall not be deemed to have made any other representation or warranty in connection with this Agreement.

Section 3.02 Representations and Warranties of Purchaser. As a material inducement to Seller to enter into this Agreement and to consummate the transactions contemplated hereby, Purchaser hereby represents and warrants to Seller as of the Closing Date as follows:

(a) Organization and Authority. Purchaser has all requisite power and authority to own, lease or operate its property and to carry on its business as presently conducted and, to the extent required under applicable law, is qualified to do business and is in good standing in each jurisdiction in which the nature of its business or the character of its property make such qualification necessary. The execution, delivery and performance of this Agreement by Purchaser has been duly and validly authorized by all necessary action of Purchaser. This Agreement, when executed and delivered, will constitute the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency and debtors' relief or the application of equitable principles.

(b) No Consents. No consents, authorizations or approvals of any third parties including, but not limited to, any action, approval, consent or authorization by any third party, financial institution, governmental or quasi-governmental agency, commission, board, bureau or instrumentality or any members or managers of any company, are required in connection with the execution, delivery or performance of this Agreement by Purchaser or the consummation of the transactions contemplated by this Agreement. Purchaser has made, or shall make, simultaneously with the Closing, all registrations or filings with any governmental authority required for the execution or delivery of this Agreement or the consummation of the transactions contemplated hereby.



#### ARTICLE 4. SURVIVAL

Section 4.01. Survival of Representations, Warranties and Covenants. The representations and warranties of Seller set forth in Section 3.01 are made as of the Effective Date and the Closing Date, and shall not be deemed to be merged into or waived by the instruments of Closing, but shall survive the Closing for a period of 12 months (the "Survival Period"). All covenants set forth in this Agreement shall survive the Closing indefinitely and shall not be deemed to be merged into or waived by the instruments of Closing. Each party shall have the right to bring an action against the other on the breach of a representation or warranty or covenant hereunder or in the documents delivered by Seller at the Closing, but only on the following conditions: (1) the party bringing the action for breach first learns of the breach after Closing and, in the case of a claim for breach of representations or warranties, files such action within the Survival Period and (2) neither party shall have the right to bring a cause of action for a breach of a representation or warranty or covenant unless the damage to such party on account of such breach (individually or when combined with damages from other breaches) equals or exceeds \$250,000, and then only to the extent of such excess. Neither party shall have any liability after Closing for the breach of a representation or warranty or covenant hereunder of which the other party hereto had knowledge as of Closing. In no event shall either party be liable to the other party for incidental, consequential, or punitive damages as a result of the breach of any or all representations or warranties set forth in this Agreement. The provisions of this Section 4.01 shall survive the Closing.

#### ARTICLE 5. MISCELLANEOUS

Section 5.01. Parties Bound; Assignment. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto.

Section 5.02. Headings. The article, section, subsection, paragraph and/or other headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

Section 5.03. Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and, to the greatest extent legally possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future.

Section 5.04. Governing Law. This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws of the state New York.

Section 5.05. Survival. The provisions of this Agreement that contemplate performance after the Closing and the obligations of the parties not fully performed at the Closing (other than any unfulfilled closing conditions which have been waived or deemed waived by the other party)

5

---

shall survive the Closing and shall not be deemed to be merged into or waived by the instruments of Closing.

Section 5.06. Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Real Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought. All Exhibits hereto are incorporated herein by this reference for all purposes.

Section 5.07. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth below. Any such notices shall, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (b) by overnight delivery using a nationally recognized overnight courier, or (c) by personal delivery. Notice given in accordance herewith for all permitted forms of notice other than by electronic mail, shall be effective upon the earlier to occur of actual delivery to the address of the addressee or refusal of receipt by the addressee. Except for facsimile notices as described above, no notice hereunder shall be effective if sent or delivered by electronic means. In no event shall this Agreement be altered, amended or modified by electronic mail or electronic record. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

Seller:	iStar REO Holdings TRS LLC c/o iStar Inc. 1114 Avenue of the Americas 39th Floor New York, New York 10036 Attention: Chief Legal Officer Copy: General Counsel Telephone: 212-930-9400 Facsimile: 212-930-9494 E-mail: nmatis@iStar.com
Purchaser:	Safety Income and Growth Operating Partnership LP c/o iStar Inc. 1114 Avenue of the Americas New York, NY 10036 Attention: Mary-Beth Roselle, Esq. Telephone: 212-930-9481 Facsimile: 212-930-9494 E-mail: mroselle@istar.com

6

Section 5.08. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement.

Section 5.09. No Third Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

7

---

**SIGNATURE PAGE TO ASSIGNMENT, ASSUMPTION AND MEMBERSHIP INTEREST TRANSFER AGREEMENT  
BY AND BETWEEN iSTAR REO HOLDINGS TRS LLC  
AND  
SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP**

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

**iSTAR REO HOLDINGS TRS LLC**, a Delaware limited liability company

Date

By: /s/ Geoffrey G. Jervis

June 27, 2017

Name: Geoffrey G. Jervis

Title: Chief Operating Officer & Chief Financial Officer

**SAFETY INCOME AND GROWTH PARTNERSHIP LP**, a Delaware limited partnership

Date

By: /s/ Geoffrey G. Jervis

June 27, 2017

Name: Geoffrey G. Jervis

Title: Chief Operating Officer & Chief Financial Officer

*[Signature Page to Assignment and  
Transfer Agreement - South]*

---

**CREDIT AGREEMENT**

Dated as of June 27, 2017

among

**SAFETY, INCOME AND GROWTH, INC.,**  
as the Borrower,

**SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP,**  
**SIGOP GEN PAR LLC**  
and  
**CERTAIN SUBSIDIARIES OF**  
**SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP**  
**FROM TIME TO TIME PARTY HERETO,**  
as Guarantors,

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

**BANK OF AMERICA, N.A.**  
**JPMORGAN CHASE BANK, N.A.**  
**BARLCAYS BANK PLC,**  
as L/C Issuers

and

The Other Lenders Party Hereto

**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED**  
**JPMORGAN CHASE BANK, N.A.**  
**BARLCAYS BANK PLC,**  
as Joint Lead Arrangers

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

**JPMORGAN CHASE BANK, N.A. and**  
**BARLCAYS BANK PLC**  
as Co-Syndication Agents

**TABLE OF CONTENTS**

<u>Section</u>	<u>Page</u>
Article I.	1
DEFINITIONS AND ACCOUNTING TERMS	
1.01	1
1.02	42
1.03	43
1.04	44
1.05	44
1.06	44
Article II.	44
THE COMMITMENTS AND CREDIT EXTENSIONS	
2.01	44
2.02	44
2.03	46
2.04	55
2.05	56
2.06	56
2.07	57

2.08	Interest	57
2.09	Fees	58
2.10	Computation of Interest and Fees	58
2.11	Evidence of Debt	59
2.12	Payments Generally; Administrative Agent’s Clawback	59
2.13	Sharing of Payments by Lenders	61
2.14	Extension of Maturity Date	62
2.15	Increase in Commitments; Addition of Incremental Term Loan Facilities	63
2.16	Cash Collateral	66
2.17	Defaulting Lenders	67
2.18	Inclusions, Exclusions and Removals of Borrowing Base Assets	70

Article III. TAXES, YIELD PROTECTION AND ILLEGALITY 77

3.01	Taxes	77
3.02	Illegality	81
3.03	Inability to Determine Rates	82
3.04	Increased Costs; Reserves on Eurodollar Rate Loans	83
3.05	Compensation for Losses	85
3.06	Mitigation Obligations; Replacement of Lenders	85
3.07	Survival	86

Article IV. CONDITIONS PRECEDENT TO CREDIT EXTENSIONS 86

4.01	Conditions of Effectiveness	86
4.02	Conditions to all Credit Extensions	89

Article V. REPRESENTATIONS AND WARRANTIES 89

5.01	Existence, Qualification and Power	89
5.02	Authorization; No Contravention	90
5.03	Governmental Authorization; Other Consents	90
5.04	Binding Effect	90
5.05	Financial Statements; No Material Adverse Effect	90
5.06	Litigation	91
5.07	No Default	91
5.08	Ownership of Property; Liens	92
5.09	Environmental Compliance	92
5.10	Insurance	92
5.11	Taxes	92
5.12	Compliance with ERISA	93
5.13	Subsidiaries; Equity Interests	94
5.14	Margin Regulations; Investment Company Act	94
5.15	Disclosure	95
5.16	Compliance with Laws	95
5.17	Taxpayer Identification Number	95
5.18	Anti-Corruption Laws and Sanctions; Anti-Money Laundering	95
5.19	Solvency	95
5.20	Principal Offices	96
5.21	REIT Status and Stock Exchange Listing	96
5.22	No Burdensome Agreements	96
5.23	Collateral Documents	96
5.24	Organization Documents	96
5.25	Borrowing Base Assets	96
5.26	EEA Financial Institutions	96

Article VI. AFFIRMATIVE COVENANTS 96

6.01	Financial Statements	96
6.02	Certificates; Other Information	97
6.03	Notices	99
6.04	Payment of Obligations	101
6.05	Preservation of Existence, Etc.	101
6.06	Maintenance of Properties	101
6.07	Maintenance of Insurance	101
6.08	Compliance with Laws	104
6.09	Books and Records	104
6.10	Inspection Rights	104
6.11	Use of Proceeds	105
6.12	Springing Mortgage Requirement; Additional Subsidiary Guarantors	105
6.13	Anti-Corruption Laws	108
6.14	Information Regarding Collateral	108

6.15	Maintenance of REIT Status; Stock Exchange Listing	108
6.16	Appraisals	108
6.17	Further Assurances	108

---

Article VII.	NEGATIVE COVENANTS	109
7.01	Liens	109
7.02	Investments	109
7.03	Indebtedness	110
7.04	Fundamental Changes	111
7.05	Dispositions	112
7.06	Restricted Payments	113
7.07	Change in Nature of Business	114
7.08	Transactions with Affiliates	114
7.09	Burdensome Agreements	114
7.10	Use of Proceeds	114
7.11	Financial Covenants	115
7.12	Sanctions	115
7.13	Anti-Corruption Laws; Anti-Money Laundering	116
7.14	Amendments, Waivers and Terminations of Certain Agreements	116
7.15	Accounting Changes; Fiscal Year	116
Article VIII.	EVENTS OF DEFAULT AND REMEDIES	116
8.01	Events of Default	116
8.02	Remedies Upon Event of Default	119
8.03	Application of Funds	120
Article IX.	ADMINISTRATIVE AGENT	121
9.01	Appointment and Authority	121
9.02	Rights as a Lender	121
9.03	Exculpatory Provisions	121
9.04	Reliance by Administrative Agent	122
9.05	Delegation of Duties	123
9.06	Resignation of Administrative Agent	123
9.07	Non-Reliance on Administrative Agent and Other Lenders	125
9.08	No Other Duties, Etc.	125
9.09	Administrative Agent May File Proofs of Claim; Credit Bidding	125
9.10	Collateral and Guaranty Matters	126
9.11	ERISA	127
Article X.	MISCELLANEOUS	127
10.01	Amendments, Etc.	127
10.02	Notices; Effectiveness; Electronic Communication	129
10.03	No Waiver; Cumulative Remedies; Enforcement	132
10.04	Expenses; Indemnity; Damage Waiver	132
10.05	Payments Set Aside	135
10.06	Successors and Assigns	135
10.07	Treatment of Certain Information; Confidentiality	139
10.08	Right of Setoff	140
10.09	Interest Rate Limitation	141

---

10.10	Counterparts; Integration; Effectiveness	141
10.11	Survival of Representations and Warranties	142
10.12	Severability	142
10.13	Replacement of Lenders	142
10.14	Governing Law; Jurisdiction; Etc.	143
10.15	Waiver of Jury Trial	144
10.16	No Advisory or Fiduciary Responsibility	144
10.17	Electronic Execution of Assignments and Certain Other Documents	145
10.18	USA PATRIOT Act	145
10.19	ENTIRE AGREEMENT	146
10.20	Acknowledgement and Consent to Bail-In of EEA Financial Institutions	146
10.21	Appraisals	146

Article XI.	MISCELLANEOUS	147
-------------	---------------	-----

11.01	Guaranty	147
11.02	Rights of Lenders	148
11.03	Certain Waivers	148
11.04	Obligations Independent	148
11.05	Subrogation	149
11.06	Termination; Reinstatement	149
11.07	Subordination	149
11.08	Stay of Acceleration	149
11.09	Condition of the Borrower	150
11.10	Limitations on Enforcement	150
11.11	Contribution	150
11.12	Investment Grade Release	151

## SCHEDULES

2.01	Commitments and Applicable Percentages
2.18	Collateral and Borrowing Base Assets List
5.12	Multiemployer Plans/Collective Bargaining Agreements
5.13	Subsidiaries; Equity Interests
10.02	Administrative Agent's Office; Certain Addresses for Notices

## EXHIBITS

A	Form of Committed Loan Notice
B	Form of Borrowing Base Certificate
C	Form of Note
D	Form of Compliance Certificate
E	Form of Assignment and Assumption
F-1	Form of Perfection Certificate
F-2	Form of Perfection Certificate Supplement
G	Form of U.S. Tax Compliance Certificates
H	Form of Joinder Agreement
I	Survey Requirements

## CREDIT AGREEMENT

This CREDIT AGREEMENT ("Agreement") is entered into as of June 27, 2017, among SAFETY, INCOME AND GROWTH, INC., a Maryland corporation (the "Borrower"), SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP, a Delaware limited partnership (the "Operating Partnership"), SIGOP GEN PAR LLC ("SIGOP") and certain subsidiaries of the Operating Partnership from time to time party hereto, as Guarantors, each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"), BANK OF AMERICA, N.A., as Administrative Agent, and BANK OF AMERICA, N.A., JPMORGAN CHASE BANK, N.A. and BARCLAYS BANK PLC, as L/C Issuers.

The Borrower has requested that the Lenders provide a revolving credit facility, and the Lenders are willing to do so on the terms and conditions set forth herein.

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

### ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS

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

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

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

"Administrative Questionnaire" means with respect to each Lender, an administrative questionnaire in the form prepared by the Administrative Agent and submitted to the Administrative Agent (with a copy to the Borrower) duly completed by such Lender.

"Affiliate" as applied to any Person, means any other Person that directly or indirectly Controls, is Controlled by, or is under common Control with, that Person.

"Aggregate Commitments" means at any time, the aggregate amount of the Commitments of all the Lenders then in effect. On the Closing Date, the Aggregate Commitments are \$300,000,000.

"Aggregate Deficit Amount" has the meaning specified in Section 11.11.

“Aggregate Excess Amount” has the meaning specified in Section 11.11.

“Agreement” means this Credit Agreement.

1

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

“Anti-Money Laundering Laws” means any and all laws, judgments, executive orders, regulations, statutes or treaties applicable to a Loan Party or its Subsidiaries, related to terrorism financing or money laundering including any applicable provision of Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001 (Title III of Pub. L. 107-56) 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 Advance Rate” means (a) with respect to an Eligible Ground Net Lease Asset, 67% and (b) with respect to an Eligible Loan Asset, 60%.

“Applicable Fee Rate” means, with respect to any day, the per annum fee rate set forth opposite the Revolver Usage for such day in the following pricing grid:

<u>Revolver Usage</u>	<u>Applicable Fee Rate</u>
< 50%	0.25%
> 50%	0.15%

For purposes hereof, “Revolver Usage” means, with respect to any day, the ratio (expressed as a percentage) of (a) the sum of (i) the Outstanding Amount of Loans on such day and (ii) the Outstanding Amount of L/C Obligations on such day to (b) the Aggregate Commitments in effect on such day.

“Applicable Percentage” means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments represented by such Lender’s Commitment at such time, subject to adjustment as provided in Section 2.17. If the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Lender becomes a party hereto, as applicable.

“Applicable Rate” means, for any day, with respect to any Eurodollar Rate Loan, Base Rate Loan, Letter of Credit Fee and Facility Fee, as the case may be (a) until the Investment Grade Pricing Effective Date, (i) 1.35% for Eurodollar Rate Loan and Letter of Credit Fees, (ii) 0.35% for Base Rate Loans and (iii) 0.00% for the Facility Fee and (b) on and after the Investment Grade Pricing Effective Date, from time to time, the following percentages per annum, based upon the Debt Rating as set forth below:

2

<u>Pricing Level</u>	<u>Debt Ratings</u>	<u>Facility Fee</u>	<u>Applicable Rate for Eurodollar Rate Loans and Letter of Credit Fees</u>	<u>Applicable Rate for Base Rate Loans</u>
1	A-/A3 or better	0.125%	0.850%	0.000%
2	BBB+/Baa1	0.150%	0.900%	0.000%
3	BBB-/Baa2	0.200%	1.000%	0.000%
4	BBB-/Baa3	0.250%	1.200%	0.200%
5	Below BBB-/Baa3 (or unrated)	0.300%	1.550%	0.550%

“Debt Rating” means, as of any date of determination, the rating as determined by S&P, Moody’s or Fitch (collectively, the “Debt Ratings”) of the Borrower’s non-credit-enhanced, senior unsecured long-term debt; provided that if at any time (x) the Borrower has three (3) Debt Ratings and such Debt Ratings are not equivalent, then (A) if the difference between the highest and the lowest of such Debt Ratings is one ratings category (e.g. Baa2 by Moody’s and BBB- by S&P or Fitch), the Applicable Rate shall be determined based on the highest of the Debt Ratings, and (B) if the difference between such Debt Ratings is two ratings categories (e.g. Baa1 by Moody’s and BBB- by S&P or Fitch) or more, the Applicable Rate shall be determined based on the average of the two (2) highest Debt Ratings, provided that if such average is not a recognized rating category, then the Applicable Rate shall be determined based on the second highest of the Debt Ratings; (y) the Borrower has only two (2) Debt Ratings and such Debt Ratings are not equivalent, then: (A) if the difference between such Debt Ratings is one ratings category (e.g. Baa2 by Moody’s and BBB- by S&P or Fitch), the Applicable Rate shall be determined based on the higher of the Debt Ratings, and (B) if the difference between such Debt Ratings is two ratings categories (e.g., Baa1 by Moody’s and BBB- by S&P or Fitch) or more, the Applicable Rate shall be determined based on the Debt Rating that is one higher than the lower of the applicable Debt Ratings; (c) the Borrower has only one Debt Rating, then: (A) if such Debt Rating is issued by S&P or Moody’s, the Pricing Level that is one level lower than that of such Debt Rating shall apply and (B) if such Debt Rating is issued by Fitch, Pricing Level 5 shall apply; and (d) the Borrower does not have any Debt Rating, Pricing Level 5 shall apply.

On the Investment Grade Pricing Effective Date, the Applicable Rate shall be determined based upon the Debt Rating(s) specified in the certificate delivered pursuant to clause (ii) of the definition of “Investment Grade Pricing Effective Date.” Thereafter, each change in the Applicable Rate resulting from a publicly announced change in a Debt Rating shall be effective, in the case of an upgrade, during the period commencing on the date of delivery by the Borrower to the Administrative Agent of notice thereof pursuant to Section 6.03(g), and ending on the date immediately preceding the effective date of the next such change and, in the case of a downgrade, during the period commencing on the date of the public announcement thereof and ending on the date immediately preceding the effective date of the next such change.

“Appraisal” means, an “as-is” appraisal of the market value of a Real Property Asset (on an individual, as opposed to portfolio value, basis) that is satisfactory as to value and otherwise

3

---

satisfactory to Administrative Agent (including satisfaction of applicable regulatory requirements) prepared by an MAI appraiser satisfactory to Administrative Agent and engaged directly by Administrative Agent.

“Appraised Value” means, with respect to the Real Property Asset underlying any Borrowing Base Asset, the appraised value of such Real Property Asset as reflected in the Current Appraisal thereof most recently received and approved by the Administrative Agent on or prior to the Closing Date or pursuant to any provision of this Agreement. For the avoidance of doubt, the Appraised Value of the Real Property Asset underlying any Borrowing Base Asset for which there is no Current Appraisal shall be zero (\$0).

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

“Arrangers” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement), JPMorgan Chase Bank, N.A. and Barclays Bank PLC, each in its capacity as a joint lead arranger.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

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

“Audited Financial Statements” means the selected historical combined balance sheet information as of December 31, 2016 and 2015 of the Borrower’s predecessor and the selected historical combined statements of operations information for the years ended December 31, 2016 and 2015 of the Borrower’s predecessor derived from the audited historical combined financial statements of the Borrower’s predecessor, in each case as set forth in the Form S-11.

“Availability” means, at any time, the lesser of (a) the Aggregate Commitments at such time and (b) an amount equal to the Borrowing Base Amount at such time minus Total Outstandings minus (without duplication) the then outstanding amount of Total Unsecured Debt minus (without duplication) the then outstanding amount of Secured Pari Passu Obligations.

“Availability Period” means the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments

4

---

pursuant to Section 2.06, and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuers to make L/C Credit Extensions pursuant to Section 8.02.

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

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

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

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (c) the Eurodollar Rate plus 1.00%. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Committed Loan” means a Committed Loan that is a Base Rate Loan.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Bookrunner” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement), in its capacity as sole bookrunner.

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



“Borrower Materials” has the meaning specified in Section 6.02.

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

“Borrowing Base Amount” means, on any date, the lesser of:

- (a) the sum of the Individual Borrowing Base Amounts for all Borrowing Base Assets on such date; and

5

- (b) the maximum amount of Unsecured Debt plus Secured Pari Passu Obligations plus Indebtedness under the Loan Documents that can be supported by the Borrowing Base Cash Flow for all Borrowing Base Assets assuming (i) an interest rate equal to the interest rate (including any Applicable Rate) applicable to Eurodollar Rate Loans on such date and (ii) interest coverage of 1.70 to 1.00;

provided that, the Borrowing Base Amount shall be subject to the following adjustments:

- (i) the aggregate Individual Borrowing Base Amounts of all Eligible Ground Net Lease Assets with respect to unimproved land and property under ground-up development by a ground lessee (only for so long as such land or property is unimproved or under ground-up development and expressly excluding construction activities that are not ground-up constructions, including, without limitation, restoration and repair of casualty loss, tenant improvements and other repairs, renovations and maintenance) shall not exceed 10% of the Borrowing Base Amount at any one time (and any such excess shall be disregarded for purposes of determining the Borrowing Base Amount); and

- (ii) the aggregate Individual Borrowing Base Amounts of all Eligible Loan Assets shall not exceed 10% of the Borrowing Base Amount at any one time (and any such excess shall be disregarded for purposes of determining the Borrowing Base Amount).

“Borrowing Base Assets” means, as of any date, the Eligible Loan Assets and the Eligible Ground Net Lease Assets properly included in the calculation of the Borrowing Base Amount on such date.

“Borrowing Base Assets List” has the meaning specified in Section 2.18(a) as such list may be modified from time to time.

“Borrowing Base Cash Flow” means, as of any date of determination, for (subject to the last sentence of this definition) the period of four full fiscal quarters ended on such date (if such date is the last day of a fiscal quarter) or the then more recently ended period of four fiscal quarters (if such date is not the last day of a fiscal quarter), the sum, without duplication of (i) interest payable by the Loan Asset Borrowers and actually received by the applicable mortgagee with respect to the Eligible Loan Assets included in the Borrowing Base Amount for such period and (ii) cash flows from the Eligible Ground Net Lease Assets included in the Borrowing Base Amount for such period consisting of base rent plus Percentage Rent payable by the lessee thereunder and actually received by the lessor, minus any expenses incurred during such period by any Consolidated Party in respect of such Eligible Ground Net Lease Asset, including cash management fees in an amount equal to the greater of (x) the actual aggregate amount of cash management fees paid in respect of such Eligible Ground Net Lease Assets and (y) an amount equal to 1.00% of the aggregate rent (including base rent, Percentage Rent and any other form of cash rent) payable by lessees under such Eligible Ground Net Lease Assets; provided, that at any time a Material Event has occurred and is continuing, such Eligible Ground Net Lease Asset or Eligible Loan Asset, as the case may be, shall be excluded for all purposes of the calculation of the foregoing; provided, further, that in the event that a Material Event that has occurred is no longer continuing, any adjustment made to the Borrowing Base Cash Flow in

6

connection therewith shall be readjusted accordingly and the subject Eligible Ground Net Lease Asset(s) or Eligible Loan Asset(s) shall be included for all purposes of the calculation of the foregoing.

For purposes of determining clause (b) of the definition of Borrowing Base Amount and the Springing Fixed Charge Coverage Ratio as of any date, the Borrowing Base Cash Flow attributable to a Borrowing Base Asset that has been owned by a Consolidated Party (A) for less than one full fiscal quarter as of such date shall be mutually agreed upon by the Administrative Agent and the Borrower, (B) for not more than one full fiscal quarter as of such date shall be the Borrowing Base Cash Flow attributable to such Borrowing Base Asset for such fiscal quarter multiplied by 4, (C) for not more than two full fiscal quarters as of such date shall be the Borrowing Base Cash Flow attributable to such Borrowing Base Asset for such two fiscal quarter period multiplied by 2, and (D) for not more than three full fiscal quarters shall be the Borrowing Base Cash Flow attributable to such Borrowing Base Asset for such three fiscal quarter period multiplied by 4/3.

“Borrowing Base Certificate” means a certificate, signed and certified as accurate and complete by a senior financial officer of the Borrower, in substantially the form of Exhibit B (or another form acceptable to the Administrative Agent) setting forth the calculation of the Borrowing Base Amount. All calculations of the Borrowing Base Amount in connection with the preparation of any Borrowing Base Certificate shall originally be made by the Borrower and certified to the Administrative Agent; provided, that the Administrative Agent shall have the right to review and make reasonable adjustments to any such calculation to the extent the Administrative Agent reasonably determines that such calculation contains errors or is not otherwise in accordance with this Agreement and notifies the Borrower of such adjustment.

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

“Capital Leases” as applied to any Person, means any lease of any property (whether real, personal or mixed) by that Person as lessee which, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

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

“Cash Equivalents” means (a) cash; (b) marketable direct obligations issued or unconditionally guaranteed by the United States Government or issued by an agency thereof and backed by the full faith and credit of the United States, in each case maturing within one (1) year

7

---

after the date of acquisition thereof; (c) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within ninety (90) days after the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from any two of S&P, Moody’s or Fitch (or, if at any time no two of the foregoing shall be rating such obligations, then from such other nationally recognized rating services acceptable to the Administrative Agent); (d) commercial paper (foreign and domestic) or master notes, other than commercial paper or master notes issued by the Borrower or any of its Affiliates, and, at the time of acquisition, having a long-term rating of at least A or the equivalent from S&P, Moody’s or Fitch and having a short-term rating of at least A-1, P-1 and F-1 from S&P, Moody’s and Fitch, respectively (or, if at any time neither S&P nor Moody’s nor Fitch shall be rating such obligations, then the highest rating from such other nationally recognized rating services acceptable to the Administrative Agent); (e) domestic and foreign certificates of deposit or domestic time deposits or foreign deposits or bankers’ acceptances (foreign or domestic) in Dollars that are issued by a bank (I) which has, at the time of acquisition, a long-term rating of at least A or the equivalent from S&P, Moody’s or Fitch and (II) if a domestic bank, which is a member of the Federal Deposit Insurance Corporation; (f) overnight securities repurchase agreements, or reverse repurchase agreements secured by any of the foregoing types of securities or debt instruments, provided that the collateral supporting such repurchase agreements shall have a value not less than 101% of the principal amount of the repurchase agreement plus accrued interest; and (g) money market funds invested in investments substantially all of which consist of the items described in the foregoing clauses (a) through (f).

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

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

- (a) any Person or “group” (as such term is defined in applicable federal securities laws and regulations), other than iStar Inc. or an Affiliate of iStar Inc., shall become the owner, directly or indirectly, beneficially or of record, of shares representing more than forty percent (40%) of the aggregate ordinary voting power represented by the issued and outstanding common shares of the Borrower;
- (b) a majority of the Board of Directors of the Borrower over a consecutive one-year period shall not consist of (i) the directors who constituted the Board of Directors of the Borrower at the beginning of such period or (ii) directors whose

8

---

nomination or election was approved by a vote of at least a majority of the Board of Directors of the Borrower then still in office who were either members of such Board of Directors at the beginning of such period or whose nomination or election as a member of such Board of Directors was previously so approved;

- (c) the Borrower or a Wholly-Owned Subsidiary that is a Guarantor shall cease to be the sole general partner of the Operating Partnership or the Borrower shall cease to Control the Operating Partnership; or
- (d) the Borrower shall cease to be managed by iStar Inc. or a Wholly-Owned Subsidiary thereof.

“Closing Date” means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

“CMBS Financing” means (i) the \$227 million Loan Agreement, dated March 30, 2017, among certain Subsidiaries of the Borrower and Barclays Bank P.L.C., JPMorgan Chase Bank, National Association and Bank of America, N.A., as the same may be amended from time to time, together with the related “Loan Documents,” as such term is defined in such Loan Agreement and (ii) other similar financings of the Borrower that are secured by commercial real property and loan interests and securitized by the lenders thereof.

“Code” means the Internal Revenue Code of 1986.

“Collateral” means all of the “Collateral” and “Mortgaged Property” or “Trust Property” or other similar term referred to in the Collateral Documents that is required under the terms of the Loan Documents to be subject to Liens in favor of the Administrative Agent for the benefit of the Secured Parties.

“Collateral Documents” means the Pledge Agreement, each of the Mortgages, pledge agreement supplements or other similar agreements delivered to the Administrative Agent pursuant to Section 6.12, and each of the other agreements, instruments or documents that creates or perfects or purports to create or perfect a Lien in the Collateral in favor of the Administrative Agent for the benefit of the Secured Parties to secure the obligations and liabilities of the Borrower or any other Loan Party under any Loan Document or providing rights and remedies in respect of the Collateral.

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

“Committed Loan” has the meaning specified in Section 2.01.

“Committed Loan Notice” means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, pursuant to

9

---

Section 2.02(a), which shall be substantially in the form of Exhibit A or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

“Compliance Certificate” means a certificate substantially in the form of Exhibit D duly executed by the chief executive officer, chief financial officer, treasurer or controller of the Borrower.

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

“Consolidated EBITDA” means, for the Consolidated Group and for any period, an amount equal to Consolidated Net Income for such period plus (a) the following to the extent deducted in calculating Consolidated Net Income: (i) Interest Expense for such period, (ii) the provision for federal, state, local and foreign income taxes payable by the Consolidated Group for such period, (iii) depreciation and amortization expense incurred during such period, (iv) all non-cash items decreasing Consolidated Net Income for such period and (v) other non-recurring expenses of the Borrower and its Subsidiaries reducing such Consolidated Net Income (including straight line rent adjustments) which do not represent a cash item in such period or any future period and minus (b) the following to the extent included in calculating such Consolidated Net Income: (i) federal, state, local and foreign income tax credits of the Consolidated Group for such period and (ii) all non-cash items increasing Consolidated Net Income for such period.

“Consolidated Group” means the Borrower and its Consolidated Subsidiaries.

“Consolidated Net Income” means, for any period, for the Consolidated Group, the net income (or loss) of the Borrower and its Subsidiaries on a consolidated basis for such period (excluding extraordinary gains and extraordinary losses for that period).

“Consolidated Party” means a member of the Consolidated Group.

“Consolidated Subsidiary” means at any date any Subsidiary or other entity which is consolidated with the Borrower in accordance with GAAP or which is required under GAAP to be consolidated with the Borrower.

“Consolidated Tangible Net Worth” means, as of any date of determination, Shareholders’ Equity minus the Intangible Assets of the Borrower and its Subsidiaries plus accumulated depreciation of real property and amortization (excluding, to the extent included when determining Shareholders’ Equity) of the Borrower and its Subsidiaries, in each case, determined on a consolidated basis in accordance with GAAP.

“Contingent Obligation” as to any Person means, without duplication, (i) any contingent obligation of such Person required to be shown on such Person’s balance sheet in accordance with GAAP which is not otherwise Indebtedness and (ii) any obligation required to be disclosed in accordance with GAAP in the footnotes to such Person’s financial statements, guaranteeing partially or in whole any Non-Recourse Indebtedness, lease, dividend or other obligation

10

---

including guarantees of completion and guarantees of representations and warranties; provided, however, Contingent Obligations shall not include title or contractual indemnities (including, any indemnity or price-adjustment provision relating to the purchase or sale of securities or other assets) and guarantees of non-monetary obligations (other than as described above) which have not yet been called on or quantified, of such Person or of any other Person. The amount of any Contingent Obligation described in clause (ii) shall be deemed to be (a) with respect to a guaranty of interest or interest and principal, or operating income guaranty, the Net Present Value of the sum of all payments required to be made thereunder (which in the case of an operating income guaranty shall be deemed to be equal to the debt service for the note secured thereby), through (i) in the case of an interest or interest and principal guaranty, the stated date of maturity of the obligation (and commencing on the date interest could first be payable thereunder), or (ii) in the case of an operating income guaranty, the date through which such guaranty will remain in effect, and (b) with respect to all guarantees not covered by the preceding clause (a), an amount equal to the stated or determinable amount of the primary obligation in respect of which such guaranty is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as recorded on the balance sheet and on the footnotes to the most recent financial statements of the Borrower required to be furnished pursuant to Section 6.01. Notwithstanding anything contained herein to the contrary, guarantees of completion and guarantees of Customary Recourse Carveouts shall not be deemed to be Contingent Obligations unless and until a claim for payment or performance has been made thereunder, at which time any such guaranty of completion or guaranty of Customary Recourse Carveouts shall be deemed to be a Contingent Obligation in an amount equal to any such claim. All matters constituting “Contingent Obligations” shall be calculated without duplication.

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

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

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

“Current Appraisal” means, on any date, an Appraisal that is dated not more than one year prior to such date (or such longer period, in no event to exceed 410 days, as the Administrative Agent may agree in writing).

“Customary Recourse Carveouts” has the meaning specified in the definition of “Non-Recourse Indebtedness.”

“Debt Rating” has the meaning specified in the definition of “Applicable Rate.”

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium,

11

---

rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

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

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

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

12

---

binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower, the L/C Issuers and each other Lender promptly following such determination.

“Direct Owner” means each Subsidiary of the Operating Partnership that directly owns any Borrowing Base Asset.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Dollar” and “\$” mean lawful money of the United States.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any political subdivision of the United States.

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

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

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

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.06(b)(iii), and (v) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).

“Eligible Ground Net Lease Assets” means the Ground Net Lease Assets set forth on Schedule 2.18 on the Closing Date and each other Ground Net Lease Asset offered by the Borrower and approved for inclusion as a Borrowing Base Asset pursuant to Section 2.18(a), in each case, as in effect on the Closing Date or the date that such Ground Net Lease Asset is included as a Borrowing Base Asset and as thereafter amended, supplemented or otherwise modified to the extent permitted under this Agreement, as applicable, and in each case, that (i) has not been excluded pursuant to Section 2.18(b) or removed pursuant to Section 2.18(c) and (ii) unless otherwise agreed by the Administrative Agent and the Super Majority Lenders, at all times satisfies each of the following criteria:

(a) (i) prior to the Investment Grade Release, each Subsidiary that is the Direct Owner of such Ground Net Lease Asset or an Indirect Owner of such Direct

13

---

Owner is a Guarantor and all of the Equity Interests of each such Direct Owner and Indirect Owner thereof shall be pledged in favor of the Administrative Agent for the benefit of the Secured Parties pursuant to the Pledge Agreement and (ii) following the Investment Grade Release, each Subsidiary that is the Direct Owner of such Ground Net Lease Asset, or an Indirect Owner of such Direct Owner, and is a borrower or guarantor of, or otherwise has a payment obligation in respect of, any Unsecured Debt or Secured Pari Passu Obligations is a Guarantor and, to the extent required by this Agreement, all of the Equity Interests of each such Direct Owner and Indirect Owner shall be pledged in favor of the Administrative Agent for the benefit of the Secured Parties pursuant to the Pledge Agreement;

(b) such Ground Net Lease Asset (and the right to any income therefrom or proceeds thereof) shall not be subject to any Lien or Negative Pledge or any other encumbrance or restriction on the ability of the Direct Owner thereof or any Indirect Owner of such Direct Owner to transfer, finance or encumber such Ground Net Lease or income therefrom or proceeds thereof (in each case, other than Permitted Property Encumbrances);

(c) such Ground Net Lease Asset (and the right to any income therefrom or proceeds thereof) is not subject to any subordination by contract or otherwise (excluding any subordination that may be deemed to occur by virtue of the existence of Permitted Property Encumbrances);

(d) such Ground Net Lease Asset is not an Other Net Lease and is located in a state within the United States or in the District of Columbia;

(e) the Ground Net Lease Asset has a remaining lease term of at least ten years (inclusive of any unexercised extension options that are available to the ground lessee thereof);

(f) no Material Event shall be continuing with respect to such Ground Net Lease Asset;

(g) such Ground Net Lease Asset generates income to the Wholly-Owned Subsidiary that is the Direct Owner thereof;

(h) none of the Equity Interests (or the right to any income therefrom or proceeds thereof) of the Direct Owner of such Ground Net Lease Asset or any Indirect Owner of such Direct Owner are subject to any Lien or Negative Pledge or any restriction on the ability to transfer or encumber such Equity Interests or any income therefrom or proceeds thereof (in each case, other than Permitted Equity Encumbrances);

(i) neither the Direct Owner of such Ground Net Lease Asset nor any Indirect Owner of such Direct Owner is a borrower or guarantor of, or otherwise obligated in respect of, any Indebtedness other than (i) the Obligations, (ii) following the Investment Grade Release, (x) Unsecured Debt, so long as such Direct Owner and Indirect Owner is also a Guarantor and (y) Secured Pari Passu Obligations and (iii) in the case of an

14

---

Indirect Owner, unsecured guarantees of Non-Recourse Indebtedness of a Subsidiary thereof for which recourse to such Indirect Owner is contractually limited to liability for Customary Recourse Carveouts;

(j) such Ground Net Lease Asset does not have any title, survey, environmental, structural, or other defects that would materially impair the profitable operation of such Ground Net Lease Asset and is not subject to any material condemnation or similar proceeding; and

(k) neither the Direct Owner of such Ground Net Lease Asset nor any Indirect Owner of such Direct Owner is subject to any proceedings under any Debtor Relief Law.

“Eligible Loan Assets” means the Loan Assets set forth on Schedule 2.18 on the Closing Date and each other Loan Asset offered by the Borrower and approved for inclusion as a Borrowing Base Asset pursuant to Section 2.18(a), in each case, that (i) has not been excluded pursuant to Section 2.18(b) or removed pursuant to Section 2.18(c) and (ii) unless otherwise agreed by the Administrative Agent and the Super Majority Lenders, at all times satisfies each of the following criteria:

(a) such Loan Asset is wholly-owned by a Wholly-Owned Domestic Subsidiary as mortgagee;

(b) (i) prior to the Investment Grade Release, each Subsidiary that is the Direct Owner of such Loan Asset or an Indirect Owner of such Direct Owner is a Guarantor and (ii) following the Investment Grade Release, each Subsidiary that is the Direct Owner of such Loan Asset, or

an Indirect Owner of such Direct Owner, and is a borrower or guarantor of, or otherwise has a payment obligation in respect of, any Unsecured Debt or Secured Pari Passu Obligations is a Guarantor;

(c) such Loan Asset is denominated in U.S. dollars;

(d) the borrower with respect to such Loan Asset (each a "Loan Asset Borrower") is the owner and ground lessor of the Real Property Asset subject to the mortgage securing such Loan Asset, is not an Affiliate of the Borrower, and is organized in a state within the United States or in the District of Columbia;

(e) such Loan Asset is secured by a first mortgage, deed of trust or analogous document on a Ground Net Lease (excluding any Other Net Lease) located in a state within the United States or in the District of Columbia with a remaining lease term of at least ten (10) years (inclusive of any unexercised extension options that are available to the relevant Loan Asset Borrower);

(f) such Loan Asset and mortgaged Real Property Asset (and, in each case, the right to any income therefrom or proceeds thereof) shall not be subject to any Lien or Negative Pledge or any other encumbrance or restriction on the ability of the Direct Owner of such Loan Asset or any Indirect Owner of such Direct Owner to transfer, finance or encumber such Loan Asset or income therefrom or proceeds thereof (in each

15

---

case, other than under the documentation for the Loan Asset and the related mortgage and any Permitted Property Encumbrances);

(g) neither the Direct Owner of such Loan Asset nor any Indirect Owner of such Direct Owner is a borrower or guarantor of, or otherwise obligated in respect of, any Indebtedness other than (i) the Obligations, (ii) following the Investment Grade Release, (x) Unsecured Debt, so long as such Direct Owner and Indirect Owner is also a Guarantor and (y) Secured Pari Passu Obligations and (iii) in the case of an Indirect Owner, unsecured guarantees of Non-Recourse Indebtedness of a Subsidiary thereof for which recourse to such Indirect Owner is contractually limited to liability for Customary Recourse Carveouts;

(h) such Loan Asset shall not be contractually or structurally junior to or *pari passu* with any other loans, or secured by Liens that are junior to or *pari passu* with the Liens securing other loans encumbering shared collateral;

(i) no Material Event shall be continuing with respect to such Loan Asset;

(j) such Loan Asset generates income to the Wholly-Owned Subsidiary that is the Direct Owner thereof and has not been classified as a Non-Performing Loan Asset;

(k) such Loan Asset does not constitute a construction or development loan and is fully disbursed;

(l) the Look-Through LTV of such Loan Asset does not exceed eighty percent (80%);

(m) none of the Equity Interests (or the right to any income therefrom or proceeds thereof) of the Direct Owner of such Loan Asset or any Indirect Owner of such Direct Owner are subject to any Lien or Negative Pledge or any restriction on the ability to transfer or encumber such Equity Interests or any income therefrom or proceeds thereof (other than Permitted Equity Encumbrances); and

(n) neither the Direct Owner nor any Indirect Owner of such Direct Owner is subject to any proceedings under any Debtor Relief Law.

"Environmental Affiliate" means any partnership, joint venture, trust or corporation in which an Equity Interest is owned directly or indirectly by any Consolidated Party and, as a result of the ownership of such Equity Interest, a Consolidated Party may become subject to liability for Environmental Claims against such partnership, joint venture, trust or corporation (or the property thereof).

"Environmental Claim" means, with respect to any Person, any liability (contingent or otherwise) or any notice, claim, demand or similar communication (written or oral) by any other Person alleging potential liability of such Person for investigatory costs, cleanup costs, governmental response costs, natural resources damage, property damages, personal injuries, fines or penalties arising out of, based on or resulting, directly or indirectly, from (a) the presence, release or threatened release into the environment, of any Hazardous Materials at any

16

---

location, whether or not owned by such Person, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, or (d) circumstances forming the basis of any violation of any Environmental Law.

"Environmental Laws" means any and all Federal, state, local, and foreign statutes, laws (including common law), judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to pollution and the protection of the environment or of human health or safety (as affected by exposure to harmful or deleterious substances).

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

“Equity Issuance” means any issuance by a Consolidated Party to any Person which is not a Consolidated Party of (a) shares of its Equity Interests, (b) any shares of its Equity Interests pursuant to the exercise of options or warrants or (c) any shares of its Equity Interests pursuant to the conversion of any debt securities to equity.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“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 and all members of an “affiliated service group” which, together with the Borrower, or any Subsidiary, are treated as a single employer under Section 414 of the Code or Section 4001(b)(1) of ERISA. Any former member of the ERISA Group shall continue to be considered a member of the ERISA Group within the meaning of this definition with respect to the period during which such entity was a member of the ERISA Group.

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

“Eurodollar Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”) or, solely to the extent LIBOR is not available, a comparable or successor rate, which comparable or successor rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for

17

---

delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

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

provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent; and if the Eurodollar Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

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

“Event of Default” has the meaning specified in Section 8.01.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii), (a)(iii) or (c), amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient’s failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

“Facility Fee” has the meaning specified in Section 2.09(a).

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

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471 (b) (1) of the Code, any U.S. or non-U.S. fiscal or regulatory Law, legislation, rules, guidance, notes or practices adopted pursuant to any intergovernmental agreement entered into in connection with implementation of such Sections of the Code.

18

---

“FDPA” means the Flood Disaster Protection Act of 1973, as it may be amended from time to time.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent. If the Federal Funds Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

“Fee Letter” means the letter agreement, dated April 4, 2017, among the Borrower, the Administrative Agent and the Bookrunner.

“FIRREA” means the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), as amended.

“Fitch” means Fitch Ratings, Inc. and any successor thereto.

“Fixed Charges” means, for the Consolidated Group and for any period, without duplication, the sum of (a) Interest Expense for such period, plus (b) all regularly scheduled principal payments made or required to be made with respect to Indebtedness of the Consolidated Parties during such period, other than any balloon or bullet payments necessary to repay maturing Indebtedness in full, plus (c) Restricted Payments made with respect to preferred Equity Interests of any Consolidated Party that are paid in cash during such period to a Person that is not a Wholly-Owned Subsidiary of the Borrower, in each case for such period.

“Foreign Lender” means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Form S-11” means the Registration Statement on Form S-11 filed by the Borrower on February 10, 2017, as amended as on April 10, 2017 and May 8, 2017.

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

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

19

---

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

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied; provided, however, that revenues, expenses, gains and losses that are included in results of discontinued operations because of the application of SFAS No. 144 will be treated as revenues, expenses, gains and losses from continuing operations.

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

“Grantor” means the applicable Loan Party that is party to a Collateral Document.

“Ground Net Lease” means a Real Property Asset consisting of (i) a ground net lease of the land underlying a commercial real estate project that is net leased by the fee owner of the land to the owners/operators of the real estate projects built or to be built thereon that is a “triple net” lease, such that the tenant is responsible for development costs, capital expenditures and all property operating expense, including maintenance, real estate taxes and insurance, containing contractual base rent increases (either at a specified percentage or CPI-based, or both) or (ii) an Other Net Lease.

“Ground Net Lease Asset” means a Ground Net Lease wholly-owned directly by a Wholly-Owned Domestic Subsidiary as ground lessor.

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any

20

---

assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” means, collectively, the Operating Partnership, SIGOP and each Subsidiary Guarantor.

“Guaranty” “ means the guaranty of the Obligations by the Guarantors pursuant to Article XI hereof.

“Hazardous Materials” means (i) all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious, medical wastes, mold, mildew and (ii) all other substances or wastes of any nature regulated pursuant to, or that could give rise to liability under, any Environmental Law.



“Improvements” means, with respect to any Real Property Asset, all onsite and offsite improvements thereto, together with all fixtures, tenant improvements, and appurtenances now or later to be located on or in the real property and/or in such improvements.

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

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) all direct or contingent reimbursement obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) Capital Leases and Synthetic Lease Obligations;

21

---

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

(h) all Guarantees of such Person in respect of any of the foregoing (excluding guarantees of Non-Recourse Indebtedness for which recourse is limited to liability for Customary Recourse Carveouts), and all other Contingent Obligations.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer (without duplication of any other Indebtedness, including intercompany Indebtedness), unless such Indebtedness is expressly made non-recourse to such Person, other than with respect to Customary Recourse Carveouts. The amount of any net obligation under any Swap Contract on any date shall be deemed to be an amount equal to the Swap Termination Value thereof as of such date *less* any portion of such Swap Termination Value that is secured by Cash Equivalents. The amount of any Capital Lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

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

“Indemnitee” has the meaning specified in Section 10.04(b).

“Indirect Owner” means each Subsidiary of the Operating Partnership that directly or indirectly owns an Equity Interest in the Direct Owner of any Borrowing Base Asset.

“Individual Borrowing Base Amount” means, with respect to any Borrowing Base Asset on any date, the lesser of:

- (a) the amount obtained by dividing (i) the Net Operating Income attributable to such Borrowing Base Asset for (subject to the last sentence of this definition) the period of four fiscal quarters ended on such date (if such date is the last day of a fiscal quarter) or the then most recently ended period of four full fiscal quarters (if such date is not the last day of a fiscal quarter), by (ii) 6.0% (or, with respect to any Borrowing Base Asset, such lower percentage as the Administrative Agent and the Required Lenders may agree in writing); and
- (b) the amount obtained by multiplying (i) in the case of an Eligible Ground Net Lease Asset, the Appraised Value of the underlying Real Property Asset, by the Applicable Advance Rate and (ii) in the case of an Eligible Loan Asset, the Loan Asset Value of such Eligible Loan Asset, by the Applicable Advance Rate;

provided, that the Individual Borrowing Base Amount of any Eligible Loan Asset shall be recalculated upon a material amendment or extension of the underlying loan of such Eligible Loan Asset, or the execution of a new loan with respect thereto and reflected in a subsequent

22

---

Borrowing Base Certificate, in each case delivered pursuant to Section 6.02(b). For purposes of determining Individual Borrowing Base Amount as of any date, the Net Operating Income attributable to a Borrowing Base Asset that has been owned by a Consolidated Party (A) for less than one full fiscal quarter as of such date shall be mutually agreed upon by the Administrative Agent and the Borrower, (B) for only one full fiscal quarter as of such date shall be the Net Operating Income attributable to such Borrowing Base Asset for such fiscal quarter multiplied by 4, (C) for only two full fiscal quarters as of such date shall be the Net Operating Income attributable to such Borrowing Base Asset for such two fiscal quarter period multiplied by 2, and (D) for only three full fiscal quarters shall be the Net Operating Income attributable to such Borrowing Base Asset for such three fiscal quarter period multiplied by 4/3.

“Information” has the meaning specified in Section 10.07.

“Initial Maturity Date” has the meaning set forth in the definition of “Maturity Date.”

“Insolvency” means with respect to any Multiemployer Plan, the condition that such plan is insolvent within the meaning of Section 4245 of ERISA.

“Insurance Proceeds” means all insurance proceeds, damages, claims and rights of action and the right thereto under any insurance policies relating to the Collateral.

“Intangible Assets” means assets that are considered to be intangible assets under GAAP, excluding lease intangibles but including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents, franchises, licenses, unamortized deferred charges, unamortized debt discount and capitalized research and development costs.

“Intercreditor Agreements” has the meaning specified in the definition of “Pari Passu Obligations.”

“Interest Expense” means as of any date, for the period of four fiscal quarters ended on such date (if such date is the last day of a fiscal quarter) or for the then most recently ended period of four full fiscal quarters (if such date is not the last day of a fiscal quarter) the total cash interest expense of the Consolidated Group in respect of Total Unsecured Debt plus Secured Pari Passu Obligations plus Indebtedness arising under the Loan Documents for such period determined in accordance with GAAP.

“Interest Payment Date” means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date.

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

23

---

is twelve months or less requested by the Borrower and consented to by all the Lenders; provided that:

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

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

(iii) no Interest Period shall extend beyond the Maturity Date.

“Investment” means, as to any Person, (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor guarantees Indebtedness of such other Person, (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit or (d) the purchase, acquisition or other investment in any real property or real property-related assets (including mortgage loans and other real estate-related debt investments, investments in land holdings, and costs to construct real property assets under development). For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“Investment Affiliate” means any Person or Subsidiary, whose financial results are not consolidated under GAAP with the financial results of the Borrower on the consolidated financial statements of the Borrower.

“Investment Grade Pricing Effective Date” means the first Business Day following the date on which (a) the Investment Grade Ratings Criteria have been satisfied and (b) the Borrower has delivered to the Administrative Agent a certificate signed by a Responsible Officer (i) certifying that the Investment Grade Ratings Criteria have been satisfied (which certification shall also set forth the Debt Rating(s) as in effect, if any, from each of S&P, Moody’s and Fitch as of such date) and (ii) notifying the Administrative Agent that the Borrower has irrevocably elected to have the Applicable Rate determined based on the Borrower’s Debt Rating(s).

“Investment Grade Ratings Criteria” means receipt by the Borrower of a Debt Rating of BBB- or better from S&P, Baa3 or better from Moody’s or BBB- or better from Fitch; provided that in event that the Borrower has a Debt Rating from Fitch of BBB- or better it must also have a Debt Rating of BBB-/Baa3 or better from S&P or Moody’s in order to satisfy the Investment Grade Ratings Criteria.

“Investment Grade Release” has the meaning specified in Section 11.12.

24

---

“IPQ” has the meaning specified in Section 4.01(a)(x).

“IRS” means the United States Internal Revenue Service.

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

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

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

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

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

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

“L/C Issuer” means, collectively, (i) Bank of America, (ii) JPMorgan Chase Bank, N.A., and (iii) Barclays Bank PLC, in each case in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

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

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

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a

Lender may from time to time notify the Borrower and the Administrative Agent, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.

“Letter of Credit” means any standby letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder.

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

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

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

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

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

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

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan.

“Loan Asset Borrower” has the meaning specified in the definition of “Eligible Loan Assets.”

“Loan Asset Value” means, with respect to any Loan Asset, the face amount of such Loan Asset at the time of its origination by a Consolidated Party, minus the sum of (a) the aggregate amount of all payments on account of principal on such Loan Asset (whether by virtue of an amortization payment, a prepayment, a release of collateral, an enforcement or otherwise) received by any Consolidated Party and (b) the amount, if any, by which the Borrower has reduced the value of such Loan Asset on its books and records subsequent to the origination thereof; provided that at any time the Appraised Value of the Real Property Asset underlying such Loan Asset is zero (\$0) then the Loan Asset Value of such Loan Asset shall also be zero (\$0).

“Loan Assets” means commercial mortgage loans originated or acquired by a Subsidiary.

“Loan Documents” means this Agreement (including the Guaranty), each Note, each Issuer Document, each Perfection Certificate, each Perfection Certificate Supplement, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.16 of this Agreement, the Fee Letter, the Intercreditor Agreements (if any) and the Collateral Documents.

“Loan Parties” collectively, (a) the Borrower, (b) the Operating Partnership, (c) SIGOP, (d) each Grantor, (e) at all times prior to the Investment Grade Release, each Subsidiary Guarantor and (f) upon and at all times following the Investment Grade Release, the Direct Owner of a Borrowing Base Asset and each Indirect Owner of such Direct Owner that is a borrower or a guarantor of, or otherwise incurs a payment obligation in respect of, any Unsecured Debt or Secured Pari Passu Obligations.

“Look-Through LTV” means, as of any date of determination with respect to any Loan Asset, the ratio (expressed as a percentage) of (a) the aggregate outstanding principal amount of such Loan Asset (including all capitalized interest) on such date of determination to (b) the Appraised Value of the underlying mortgaged Real Property Asset.

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

“Management Agreement” means the Management Agreement, dated as of June 27, 2017, by and among the Borrower, the Operating Partnership, SFTY Manager LLC and iStar Inc., as the same may be amended from time to time.

“Material Adverse Effect” means an effect resulting from any circumstance or event or series of circumstances or events, of whatever nature (but excluding general economic conditions), which does or would reasonably be expected to, materially and adversely impair (a) the ability of the Loan Parties, taken as a whole, to perform their respective obligations under the Loan Documents, or (b) the ability of the Administrative Agent or the Lenders to enforce the Loan Documents (other than as a result of circumstances related solely to the Administrative Agent or such Lender).

“Material Event” means, (a) as to any Ground Net Lease Asset, (i) the lessee of such Ground Net Lease Asset becomes a debtor in a proceeding under any Debtor Relief Law and such lessee is not continuing to perform its obligation to pay rent pursuant to the applicable ground net lease documentation, (ii) the lessee of such Ground Net Lease Asset defaults on its obligation to pay rent pursuant to the applicable ground net lease documentation for a period of more than ninety (90) days (exclusive of any period of grace with respect to such payment), (iii) any event resulting from material physical damage to the Improvements related to such Ground Net Lease Asset in respect of which the lessee of such Ground Net Lease Asset has no obligation to and otherwise elects not to, restore and repair such physical damage or (iv) any material write-down or reserve established by any Consolidated Party in respect of such Ground Net Lease Asset in accordance with GAAP, and (b) as to any Loan Asset, (i) the Loan Asset Borrower becomes a debtor in a proceeding under any Debtor Relief Law and is not continuing to perform its obligation to pay principal and interest pursuant to the applicable loan documentation, (ii) the Loan Asset Borrower defaults on its obligation to make any payment

pursuant to the applicable loan documentation for a period of more than ninety (90) days (exclusive of any period of grace with respect to such payment), (iii) any event resulting from material physical damage to the Improvements related to the Real Property Asset underlying such Loan Asset in respect of which the mortgagor of such Real Property Asset has no obligation to and otherwise elects not to, restore and repair such physical damage or (iv) any material write-down or reserve in respect of such Loan Asset in accordance with GAAP.

“Maturity Date” means June 27, 2020 (the “Initial Maturity Date”) subject to extension in accordance with Section 2.14; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Minimum Collateral Amount” means, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to 100% of the Fronting Exposure of the L/C Issuers with respect to Letters of Credit issued and outstanding at such time, (ii) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 2.16(a)(i), (a)(ii) or (a)(iii), an amount equal to 100% of the Outstanding Amount of all L/C Obligations, and (iii) otherwise, an amount determined by the Administrative Agent and the applicable L/C Issuer(s) in their sole discretion.

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

“Mortgage” means a mortgage, deed of trust, deed to secured debt or similar security interest in respect of a Real Property Asset.

“Multiemployer Plan” means at any time an employee pension benefit plan within the meaning of Section 4001(a)(3) of ERISA which is subject to Title IV of ERISA to which any member of the ERISA Group is then making or accruing an obligation to make contributions or as to which the Borrower could have any obligation or liability.

“Negative Pledge” means, a provision of any agreement (other than any Loan Document) that prohibits the creation of any Lien on any assets of a Person to secure the Obligations; provided, however, that (i) an agreement that conditions a Person’s ability to encumber its assets upon the maintenance of one or more specified ratios that limit such Person’s ability to encumber its assets but that do not generally prohibit the encumbrance of its assets, or the encumbrance of specific assets, (ii) an agreement relating to the sale of a Property that limits the creation of any Lien pending the closing of the sale thereof and (iii) Permitted Pari Passu Provisions, in each case shall not constitute a “Negative Pledge.”

“Net Operating Income” means, for any period:

(a) with respect to any Eligible Ground Net Lease Asset, income derived by the Direct Owner thereof from the operation of such Borrowing Base Asset as determined in accordance with GAAP, minus the amount of all expenses (as determined in accordance with GAAP) incurred in connection with and directly attributable to the ownership and operation by the Direct Owner of such Borrowing Base Asset for such period (including cash management fees in an amount equal to the greater of (x) the actual amount of cash management fees paid by the Direct Owner in respect of such Eligible Ground Net Lease Asset and (y) an amount equal to

1.00% of the rent (including base rent and Percentage Rent), and amounts accrued by any Consolidated Party for the payment of real estate taxes and insurance premiums, but excluding (1) any general and administrative expenses, and acquisition costs, related to the operation of the Borrower and its Subsidiaries, (2) any interest expense or other debt service charges and (3) any non-cash charges such as depreciation or amortization of financing costs); and

(b) with respect to any Eligible Loan Asset, the aggregate amount of cash interest income actually received by the Direct Owner thereof during such period in respect of such Eligible Loan Asset.

“Net Present Value” means, as to a specified or ascertainable Dollar amount, the present value, as of the date of calculation of any such amount using a discount rate equal to the Base Rate in effect as of the date of such calculation.

“Net Proceeds” means with respect to any Equity Issuance, the aggregate amount of all cash and the fair market value of all other property (other than securities of such Person being converted or exchanged in connection with any such Equity Issuance) received by such Person in respect of such Equity Issuance net of investment banking fees, legal fees, accountants’ fees, underwriting discounts and commissions and other customary fees and expenses actually incurred by such Person in connection with such Equity Issuance other than any such amounts paid or payable to an Affiliate of the Borrower. Notwithstanding the foregoing, Net Proceeds will not include net proceeds from any Equity Issuance to the extent used to redeem all or part of an existing class of Equity Interest of any Consolidated Party.

“New Lender Joinder Agreement” has the meaning specified in Section 2.15(c).

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 and (ii) has been approved by the Required Lenders.

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

“Non-Performing Loan Assets” means any Loan Asset classified as non-performing by a Consolidated Party in accordance with internal procedures, consistent with past practice.

“Non-Recourse Indebtedness” means Indebtedness with respect to which recourse for payment is limited to (i) specific assets related to a particular Real Property Asset or group of Real Property Assets encumbered by a Lien securing such Indebtedness or (ii) any Subsidiary (provided that if a Subsidiary is a partnership, there is no recourse to the Borrower as a general partner of such partnership); provided that if any portion of Indebtedness is so limited, then such portion shall constitute Non-Recourse Indebtedness and only the remainder of such Indebtedness shall constitute Recourse Debt; provided, further, however, that personal recourse of a Consolidated Party for any such Indebtedness for fraud, misrepresentation, misapplication of cash, waste, bankruptcy, unpermitted transfers, Environmental Claims and liabilities and other circumstances customarily excluded by institutional lenders from exculpation provisions and/or included in separate indemnification agreements in non-recourse financing of real estate

(collectively, “Customary Recourse Carveouts”) shall not, by itself, prevent such Indebtedness from being characterized as Non-Recourse Indebtedness.

“Note” means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit C.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

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

“Operating Partnership” has the meaning specified in the introductory paragraph hereto.

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

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

“Other Net Lease” means any lease (other than a ground net lease) that the Borrower determines reasonably and in good faith has characteristics of a ground net lease, including length of lease term, value relative to the combined value of the land, buildings and improvements (in each case, whether owned by the ground lessee or ground lessor) relating to a commercial property as if there were no ground net lease on the land at the property (as such value is determined by us using one or more valuation methodologies that the Borrower determines reasonably and in good faith to be appropriate), periodic rent escalations or percentage rent participations and “triple net” terms.

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

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

“Pari Passu Obligations” means (a) Unsecured Debt (exclusive of Indebtedness arising under this Agreement) of a Loan Party owing to a Person that is not a Consolidated Party or a Person Controlled (directly or indirectly) by the Borrower and (b) Secured Debt of a Loan Party owing to a Person that is not a Consolidated Party or a Person Controlled (directly or indirectly) by the Borrower, provided that (x) the assets and property of the Loan Parties securing such Secured Debt shall not include any asset or property of a Loan Party that is not also subject to a perfected Lien in favor of the Administrative Agent, for the benefit of the Secured Parties, (y) the Liens securing such Secured Debt shall be pari passu or junior to the Liens granted to the Administrative Agent, for the benefit of the Secured Parties, and (z) the lender(s) providing such Secured Debt (or an agent or trustee on their behalf) shall have entered into intercreditor arrangements with the Administrative Agent setting forth the relative rights of such lender(s) and the Administrative Agent in respect of the collateral securing such Secured Debt, which intercreditor arrangements shall be reasonably satisfactory to the Administrative Agent and the Borrower (any and all agreements and documents evidencing such intercreditor arrangements being referred to herein as “Intercreditor Agreements”).

“Participant” has the meaning specified in Section 10.06(d).

“Participant Register” has the meaning specified in Section 10.06(d).

“Patriot Act” has the meaning set forth in Section 10.18.

“PBGC” means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

“Percentage Rent” means, as to any Ground Net Lease, such rent that is payable with respect thereto to a Loan Party based on a percentage of gross sales.

“Perfection Certificate” shall mean a certificate in the form of Exhibit F-1 or any other form approved by the Administrative Agent, as the same shall be supplemented from time to time by a Perfection Certificate Supplement or otherwise.

“Perfection Certificate Supplement” shall mean a certificate supplement in the form of Exhibit F-2 or any other form approved by the Administrative Agent.

“Permitted Judgment Liens” means Liens securing judgments for the payment of money not constituting an Event of Default solely to the extent the aggregate amount of the judgments (other than judgments that are being contested in good faith and by appropriate actions or proceedings diligently conducted (which actions or proceedings have the effect of preventing the forfeiture or sale of the property of assets subject to any such Lien)) secured by such Liens encumbering (x) Borrowing Base Assets (and the proceeds of and income therefrom) and/or (y) the Equity Interests of the Direct Owners of Borrowing Base Assets (and the proceeds of and income therefrom) and Indirect Owners of such Direct Owners, does not exceed \$10,000,000.

“Permitted Equity Encumbrances” means:

- (a) Liens and Negative Pledges pursuant to any Loan Document;
- (b) Liens for taxes not yet due or Liens for taxes which are being contested in good faith and by appropriate proceedings diligently conducted, and which adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP; and
- (c) Permitted Judgment Liens;
- (d) Permitted Pari Passu Provisions.

“Permitted Pari Passu Provisions” means provisions that are contained in documentation evidencing or governing Pari Passu Obligations which provisions are the result of (i) limitations on the ability of a Consolidated Party to make Restricted Payments or transfer property to the Borrower or a Guarantor which limitations are not, taken as a whole, materially more restrictive than those contained in the Loan Documents, (ii) limitations on the creation of any Lien on any assets of a Person that are not, taken as a whole, materially more restrictive than those contained in the Loan Documents or (iii) any requirement that Pari Passu Obligations be secured on an “equal and ratable basis” to the extent that Indebtedness arising under the Loan Documents is secured or (iv) an agreement that conditions a Person’s ability to encumber its assets upon the maintenance of one or more specified ratios that limit such Person’s ability to encumber its assets but that do not generally prohibit the encumbrance of its assets, or the encumbrance of specific assets, which conditions are not, taken as a whole, materially more restrictive than those contained in the Loan Documents.

“Permitted Property Encumbrances” means:

- (a) Liens for Taxes, assessments or other governmental charges not yet delinquent or which are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted in accordance with the terms hereof;

(b) statutory liens of carriers, warehousemen, mechanics, materialmen and other similar liens imposed by law, which are incurred in the ordinary course of business

for sums not more than ninety (90) days delinquent or which are being contested in good faith in accordance with the terms hereof;

(c) utility deposits and other deposits or pledges to secure the performance of bids, trade contracts (other than for borrowed money), leases, purchase contracts, construction contracts, governmental contracts, statutory obligations, surety bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(d) easements (including reciprocal easement agreements and utility agreements), rights-of-way, zoning restrictions, other covenants, reservations, encroachments, leases, licenses or similar charges or encumbrances (whether or not recorded) and all other items listed on any Schedule B to the Borrower's owner's title insurance policies, except in connection with any Indebtedness, for any of the Borrower's Real Property Assets, so long as the foregoing do not interfere in any material respect with the use or ordinary conduct of the business of the Borrower and do not diminish in any material respect the value of the property to which such Lien is attached;

(e) (i) Liens and judgments which have been bonded (and the Lien on any cash or securities serving as security for such bond) or released of record within forty-five (45) days after the date such Lien or judgment is entered or filed against a Loan Party, or (ii) Liens which are being contested in good faith by appropriate proceedings for review and in respect of which there shall have been secured a subsisting stay of execution pending such appeal or proceedings and as to which the subject asset is not at risk of forfeiture;

(f) Liens and Negative Pledges pursuant to any Loan Document;

(g) Liens in favor of a Loan Party;

(h) any interest or right of a lessee of a Real Property Asset under leases entered into in the ordinary course of business of the applicable lessor;

(i) with respect to Borrowing Base Assets that are Loan Assets, rights of lessors under Ground Net Leases;

(j) Permitted Pari Passu Provisions; and

(k) Other Liens with respect to a Borrowing Base Asset that are reflected on the title report with respect to such Borrowing Base Asset furnished to the Administrative Agent prior to the Closing Date or pursuant to Section 2.18(a)(ii)(C), as the case may be, in each case, to the extent the existence of such Liens have been approved in writing by the Administrative Agent.

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

"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 Code and either (i) is maintained, or contributed to, by any member of the ERISA Group for employees of any member of the ERISA Group, (ii) has at any time within the preceding five years been maintained, or contributed to, by any Person which was at such time a member of the ERISA Group for employees of any Person which was at such time a member of the ERISA Group, (iii) to which any member of the ERISA Group has had liability within the previous five years or (iv) as to which the Borrower has any obligation or liability.

"Platform" has the meaning specified in Section 6.02.

"Pledge Agreement" has the meaning specified in Section 4.01(a).

"Public Lender" has the meaning specified in Section 6.02.

"Qualified Debt Notice" has the meaning set forth in Section 7.03(b).

"Qualified Debt" means, on any date, the sum of (i) Indebtedness (including all Loans) then outstanding and permitted pursuant to Section 7.03 and (ii) Indebtedness that the Borrower would be permitted to borrow hereunder on such date pursuant to Section 7.03 and, in the case of Loans, Section 4.02(a), (b) and (e), and which the Borrower intends to borrow within twelve months of such date. For purposes of this Agreement, the outstanding principal balance of any Loan described in clause (ii) of the preceding sentence on any date will be the amount thereof set forth in the then most recent Qualified Debt Notice received by the Administrative Agent.

"Recourse Debt" means Indebtedness other than Non-Recourse Indebtedness.

"Real Property Assets" means as to any Person as of any time, any parcel of real or leasehold property, together with all improvements and fixtures (if any) thereon or appurtenant thereto owned in fee simple or ground leased directly or indirectly by such Person at such time.

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

"Register" has the meaning specified in Section 10.06(c).

“REIT” means a real estate investment trust, as defined under Section 856 of the Code.

“Release Conditions” means, with respect to (i) the release of any Subsidiary Guarantor from its obligations under the Guaranty, (ii) the release of any Collateral consisting of a Loan Asset or a Ground Net Lease Asset pledged pursuant to Section 6.12 from the Liens created under the Collateral Documents, (iii) the release of any Collateral consisting of the Equity Interests in a Subsidiary Guarantor from the Liens created under the Pledge Agreement or (iv) the removal of any Borrowing Base Asset from the calculation of the Borrowing Base Amount (each a “Release Transaction”), (in each case other than in connection with the Investment Grade Release, which shall be governed by Section 11.12), each of the following:

34

---

(a) the Borrower shall have delivered to the Administrative Agent, at least five (5) Business Days prior to the date of the proposed Release Transaction (or such shorter period of time as agreed to by the Administrative Agent in writing), a written notice requesting such Release Transaction (a “Release Notice”), which Release Notice shall identify each Borrowing Base Asset, the Equity Interests of any Subsidiary Guarantor to be released from the Liens created under the applicable Collateral Document, the Subsidiary Guarantor to be released from the Guaranty, or the Borrowing Base Asset to be removed from the calculation of the Borrowing Base Amount, as applicable, as part of the proposed Release Transaction, and the date proposed for consummation of the Release Transaction;

(b) immediately before and after giving effect to such Release Transaction, no Default has occurred and is continuing on such date (or would exist immediately after giving effect to the proposed Release Transaction);

(c) Availability shall equal or exceed zero (\$0) on a pro forma basis immediately after giving pro forma effect to the proposed Release Transaction (and any contemporaneous prepayment of Loans and/or replacement with additional Borrowing Base Assets);

(d) the Loan Parties will be in compliance with the provisions of Section 7.11 on a pro forma basis immediately after giving effect to the proposed Release Transaction (and any contemporaneous prepayment of Loans and/or replacement with additional Borrowing Base Assets);

(e) an updated Borrowing Base Assets List; and

(f) at least two (2) Business Days prior to the proposed release date (or such shorter period of time as agreed to by the Administrative Agent in writing), the Administrative Agent shall have received (1) a fully completed Borrowing Base Certificate demonstrating to its satisfaction that, after giving effect to the proposed Release Transaction (and any related and contemplated transactions), the condition set forth in clause (c) above will be satisfied, (2) a Compliance Certificate demonstrating to its satisfaction that, after giving effect to the proposed Release Transaction (and any related and contemplated transactions), the condition set forth in clause (d) above will be satisfied and (3) a certificate executed by a Responsible Officer of the Borrower certifying to the Administrative Agent that the conditions in clauses (b) through (d) above have been satisfied.

“Release Notice” has the meaning specified in the definition of “Release Conditions.”

“Release Transaction” has the meaning specified in the definition of “Release Conditions.”

“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.

35

---

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

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that, the amount of any participation in Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the applicable L/C Issuer in making such determination.

“Responsible Officer” means the chief executive officer, president, vice president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

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

“Revolving Credit Exposure” means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Committed Loans and such Lender’s participation in L/C Obligations at such time.

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

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



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

36

---

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State or by the United Nations Security Council, the European Union, HMT or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons.

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

“Secured Debt” means, as to any Person, Indebtedness of such Person that is secured by a Lien. For the avoidance of doubt, for purposes of this Agreement the term “Secured Debt” shall include (i) the Specified Guaranty, (ii) Specified Indemnity and (iii) any CMBS Financing.

“Significant Subsidiary” means, on any date of determination, each Subsidiary or group of Subsidiaries of the Borrower whose total assets as of the last day of the then most recently ended fiscal quarter were equal to or greater than 3% of the Total Asset Value at such time (it being understood that all such calculations shall be determined in the aggregate for all Subsidiaries of the Borrower subject to any of the events specified in clause (e), (f), (g) or (h) of Section 8.01).

“Specified Guaranty” means (i) the Limited Recourse Guaranty, dated as of March 30, 2017, by iStar Inc. in favor of Barclays Bank PLC, JPMorgan Chase Bank, National Association and Bank of America, N.A., as the same may be amended from time to time, so long as the obligations thereunder are secured by a Lien on assets of a Consolidated Party.

“Specified Indemnity” means the Environmental Indemnity Agreement, dated as of March 30, 2017, by iStar Inc. and each of the entities listed on Schedule 1 thereto in favor of Barclays Bank PLC, JPMorgan Chase Bank, National Association and Bank of America, N.A., as the same may be amended from time to time, so long as the obligations thereunder are secured by a Lien on assets of a Consolidated Party.

“Secured Leverage Ratio” means the ratio (expressed as a percentage) of Total Secured Debt to Total Asset Value.

“Secured Pari Passu Obligations” means Pari Passu Obligations described in clause (b) of the definition of “Pari Passu Obligations.”

“Secured Parties” means, collectively, the Administrative Agent, the Lenders, the L/C Issuers, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05 and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Collateral Documents.

“Solvent” means that, when used with respect to any Person, as of any date of determination, (a) the amount of the “present fair saleable value” of the assets of such Person will, as of such date, exceed the amount of all “liabilities of such Person, contingent or otherwise”, as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair

37

---

saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts as they mature. For purposes of this definition, (i) “debt” means liability on a “claim”, and (ii) “claim” means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured.

“Shareholders’ Equity” means, as of any date of determination, consolidated shareholders’ equity of the Borrower and its Subsidiaries as of that date determined in accordance with GAAP.

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

“Special Flood Hazard Area” means an area identified as such by the Administrator of the Federal Emergency Management Agency or any successor agency (“FEMA”) using FEMA’s Flood Insurance Rate Map or FEMA’s Flood Hazard Boundary Map.

“Springing Fixed Charge Coverage Ratio” means, as of any date, the ratio of (a) Borrowing Base Cash Flow to (b) Fixed Charges, in each case for the period of four fiscal quarters ended on such date (if such date is the last day of a fiscal quarter) or for the then most recently ended period of four full fiscal quarters (if such date is not the last day of a fiscal quarter).

“Springing Mortgage Covenant Event” shall have occurred if on any date (a) the Springing Fixed Charge Coverage Ratio is less than 2.00 to 1.00 or (b) Consolidated Tangible Net Worth is less than the sum of (i) \$305,994,050 and (ii) an amount equal to 85% of the Net Proceeds of all Equity Issuances effected by the Borrower after the date of the most recent financial statements of the Borrower that are available as of the Closing Date, excluding any such Net Proceeds that are applied to purchase, redeem or otherwise acquire Equity Interests issued by the Borrower within 90 days of receipt of such Net Proceeds or (c) an Eligible Loan Asset or an Eligible Ground Net Lease Asset has been included as a Borrowing Base Asset for more than 364 consecutive days.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests

having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Subsidiary Guarantor” means, (a) at all times prior to the Investment Grade Release, each existing and future direct and indirect Subsidiary of the Operating Partnership that is a Direct Owner of a Borrowing Base Asset or an Indirect Owner of any such Direct Owner and (b) upon and at all times following the Investment Grade Release, each Subsidiary of the Operating Partnership (if any) that is a borrower or guarantor of, or otherwise has a payment obligation in respect of, any Unsecured Debt or any Secured Pari Passu Obligations, unless, in each case under clauses (a) and (b), released in accordance with the terms of this Agreement or otherwise with the consent of the Administrative Agent and Required Lenders.

“Super Majority Lenders” means at any time Lenders having Total Credit Exposures representing at least 67% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Super Majority Lenders at any time; provided that, the amount of any participation in any Unreimbursed Amounts that such Defaulting Lender has failed to fund that has not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the L/C Issuer with respect to such Unreimbursed Amounts in making such determination.

“Survey” means a survey prepared in accordance with Exhibit I or as otherwise approved by Administrative Agent in its sole discretion.

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

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

“Syndication Agents” means JPMorgan Chase Bank, N.A. and Barclays Bank PLC, each in its capacity as a Co-Syndication Agent.

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

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Termination Event” means (i) a “reportable event”, as such term is described in Section 4043 of ERISA and the regulations promulgated thereunder as in effect on the date of such event (other than a “reportable event” not subject to the provision for thirty (30)-day notice to the PBGC), or an event described in Section 4062(e) of ERISA, (ii) the withdrawal by any member of the ERISA Group from a Multiemployer Plan during a plan year in which it is 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, or the incurrence of liability by any member of the ERISA Group under Section 4064 of ERISA upon the termination of a Multiemployer Plan, (iii) the filing of a notice of intent to terminate any Plan under Section 4041 of ERISA, other than in a standard termination within the meaning of Section 4041 of ERISA, or the treatment of a Plan amendment as a distress termination under Section 4041 of ERISA, (iv) the institution by the PBGC of proceedings to terminate, impose liability (other than for premiums under Section 4007 of ERISA) in respect of, or cause a trustee to be appointed to administer, any Plan, (v) any failure to make by its due date any required installment under Section 430(j) of the Code with respect to any Plan, any failure by the Borrower or any member of the ERISA Group to make any required contribution to any Multiemployer Plan, or any failure to satisfy the minimum funding standards (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, shall exist with respect to any Plan, any Lien in favor of the PBGC, under Section 303(k) of ERISA, a Plan, or a Multiemployer Plan shall arise on the assets of the Borrower or any member of the ERISA Group, or there shall be any determination that any Plan is or is expected to be in “at risk” status (within the meaning of Section 430 of the Code or Section 303 of ERISA), (vi) ) the Borrower or any member of the ERISA Group shall, or in the reasonable opinion of the Required Banks is likely to, incur any liability in connection with a withdrawal from any Plan in which it was a substantial employer, or the withdrawal from, termination, or Insolvency of, or “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA) of, a Multiemployer Plan, (vi) a proceeding shall be instituted by a fiduciary of any Multiemployer Plan against any member of the ERISA Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter, (vii) the provision by the administrator of any Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA, (viii) the withdrawal by the Borrower or any member of the ERISA Group from any Plan with two or more contributing sponsors or the termination of any such Plan resulting in liability to any member of the ERISA Group pursuant to Section 4063 or 4064 of ERISA, (ix) receipt from the Internal Revenue Service of notice of the failure of any Plan (or any other employee benefit plan sponsored by the Borrower or any of its Subsidiaries which is intended to be qualified under Section 401(a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal

Revenue Code, or the failure of any trust forming part of any such employee benefit plan to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code or (x) any other event or condition that might reasonably constitute grounds for the termination of, or the appointment of a trustee to administer, any Plan or the imposition of any liability or encumbrance or Lien on the Real Property Assets or any member of the ERISA Group under Section 303(k) of ERISA or Section 430(k) of the Code.

“Total Asset Value” shall mean, as of any date, the sum of the following:

(a) the aggregate amount of cash and “cash equivalents” (as defined in accordance with GAAP) owned by the Consolidated Parties;  
plus

(b) an amount equal to the aggregate undepreciated book value of all other assets owned by the Consolidated Parties, as adjusted in accordance with GAAP to reflect impairment charges, write-downs and losses, owned on such date.

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

“Total Indebtedness” means, as of any date, the then aggregate outstanding amount of all Indebtedness of the Consolidated Group.

“Total Leverage Ratio” means the ratio (expressed as a percentage) of Total Indebtedness to Total Asset Value.

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

“Total Secured Debt” means the portion of Total Indebtedness that is Secured Debt (excluding Secured Pari Passu Obligations).

“Total Unsecured Debt” means the portion of Total Indebtedness that is Unsecured Debt.

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

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

“Uniform Commercial Code” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

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

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

---

“Unsecured Debt” means, as to any Person, Indebtedness of such Person that is not Secured Debt.

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

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

“Wholly-Owned” means, with respect to the ownership by any Person of any Property, that one hundred percent (100%) of the title to such Property is held in fee directly by such Person.

“Wholly-Owned Subsidiary” means, with respect to any Person, a Subsidiary of such Person of which one hundred percent (100%) of the outstanding shares of stock or other equity interests are owned and Controlled, directly or indirectly, by such Person. For purposes of this Agreement, the Operating Partnership and its Wholly-Owned Subsidiaries shall be deemed to be Wholly-Owned Subsidiaries of the Borrower.

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

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

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

construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights

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

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

### 1.03 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided, that, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases (whether the Borrower or its Subsidiaries are the lessors or lessees thereof) shall continue to be classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

(c) Consolidation of Variable Interest Entities. All references herein to consolidated financial statements of the Borrower and its Subsidiaries or to the determination of any amount for the Borrower and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to include each variable interest entity that the Borrower is required to consolidate pursuant to FASB ASC 810 as if such variable interest entity were a Subsidiary as defined herein.

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

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

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

## ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS

**2.01 Committed Loans.** Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a “Committed Loan”) to the Borrower from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender’s Commitment; provided, however, that after giving effect to any Committed Loan, (i) Availability shall equal or exceed zero (\$0) and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender’s Commitment. Within the limits of each Lender’s Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under this Section 2.01. Committed Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

### 2.02 Borrowings, Conversions and Continuations of Committed Loans.

(a) Each Committed Loan, each conversion of Committed Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower’s irrevocable notice to the Administrative Agent, which may be given by (A) telephone, or (B) a Committed Loan Notice; provided that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a Committed Loan Notice. Each such Committed Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Committed Loans, and (ii) on the requested date of any Borrowing of Base Rate Committed Loans; provided, however, that if the Borrower wishes to request Eurodollar Rate Loans having an Interest Period other than one, two, three or six months in duration as provided in the definition

of "Interest Period," the applicable notice must be received by the Administrative Agent not later than 11:00 a.m. four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the Lenders of such request and determine whether the requested Interest Period is acceptable to all of them. Not later than 11:00 a.m., three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the Borrower (which notice may be by telephone) whether or not the requested Interest Period has been consented to by all the Lenders. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Except as provided in Sections 2.03(c), each Borrowing of or conversion to Base Rate Committed Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Each Committed Loan Notice shall specify (i) whether the Borrower is requesting a Committed Loan, a conversion of Committed Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Committed Loans to be borrowed, converted or continued, (iv) the Type of Committed Loans to be borrowed or to which existing Committed Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Committed Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Committed Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable Committed Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a Committed Loan, each Lender shall make the amount of its Committed Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; provided, however, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the

existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate.

(e) After giving effect to all Committed Loans, all conversions of Committed Loans from one Type to the other, and all continuations of Committed Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect with respect to Committed Loans.

(f) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent, and such Lender.

### **2.03 Letters of Credit.**

#### **(a) The Letter of Credit Commitment.**

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of the Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) Availability shall equal or exceed zero (\$0), (y) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) No L/C Issuer shall issue any Letter of Credit, if:

(A) subject to Section 2.03(b)(iii), the expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date; or

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

(iii) No L/C Issuer shall be under any obligation to (but may, in its sole discretion) issue any Letter of Credit if:

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

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

(C) except as otherwise agreed by the Administrative Agent and such L/C Issuer, the Letter of Credit is in an initial stated amount less than \$500,000;

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

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

(F) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder;

(G) after giving effect to any L/C Credit Extension with respect to such Letter of Credit, the L/C Obligations with respect to all Letters of Credit issued by such L/C Issuer would exceed one-third of the Letter of Credit Sublimit (with respect to such L/C Issuer, its "L/C Commitment Amount"); provided that, subject to the limitations set forth in the proviso to Section 2.03(a)(i), any L/C Issuer in its sole discretion may issue Letters of Credit in excess of such L/C Issuer's L/C Commitment Amount; or

47

---

(H) after giving effect to any L/C Credit Extension with respect to such Letter of Credit, the sum of the aggregate principal amount at such time of all outstanding Committed Loans such L/C Issuer plus the L/C Obligations with respect to all Letters of Credit issued by such L/C Issuer would exceed such Lender's Commitment.

(iv) No L/C Issuer shall amend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

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

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

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to a single L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable L/C Issuer, by personal delivery or by any other means acceptable to such L/C Issuer. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and such L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the applicable L/C Issuer may

48

require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such L/C Issuer may require. Additionally, the Borrower shall furnish to the applicable L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Administrative Agent may require.

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

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the applicable L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable L/C Issuer, the Borrower shall not be required to make a specific request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the applicable L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that no L/C Issuer shall permit any such extension if (A) the applicable L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Lenders have elected

49

---

not to permit such extension or (2) from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing such L/C Issuer not to permit such extension.

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

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable L/C Issuer shall notify the Borrower and the Administrative Agent thereof (such notification provided by an L/C Issuer to the Borrower and the Administrative Agent being referred to herein as an "L/C Draw Notice"). If an L/C Draw Notice with respect to a Letter of Credit is received by the Borrower (x) on or prior to 11:00 a.m. on the date of any payment by the applicable L/C Issuer under such Letter of Credit (each such date a payment is made by an L/C Issuer under a Letter of Credit being referred to herein as an "Honor Date"), then, not later than 12:00 p.m. on the Honor Date, the Borrower shall reimburse the applicable L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing or (y) after 11:00 a.m. on the Honor Date, then, not later than 11:00 a.m. on the first Business Day following the Honor Date, the Borrower shall reimburse the applicable L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing (such date on which the Borrower, pursuant to clauses (x) and (y) of this sentence, are required to reimburse an L/C Issuer for a drawing under a Letter of Credit is referred to herein as the "L/C Reimbursement Date"); provided, however, that if the L/C Reimbursement Date for a drawing under a Letter of Credit is the Business Day following the Honor Date pursuant to clause (y) of this sentence, the Unreimbursed Amount shall accrue interest from and including the Honor Date until such time as the applicable L/C Issuer is reimbursed in full therefor (whether through payment by the Borrower and/or through a Committed Loan or L/C Borrowing made in accordance with paragraph (ii) or (iii) of this Section 2.03(c)) at a rate equal to (A) for the period from and including the Honor Date to but excluding the first Business Day to occur thereafter, the rate of interest then applicable to a Committed Loan that is a Base Rate Committed Loan and (B) thereafter, at the Default Rate applicable to a Committed Loan that is a Base Rate Committed Loan. Interest accruing on the Unreimbursed Amount pursuant to the proviso to the immediately preceding sentence shall be payable by the Borrower upon demand to the Administrative Agent, solely for the account of the applicable L/C Issuer. If the Borrower fails to so reimburse the applicable L/C Issuer by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Lender's Applicable Percentage thereof. In such event, the Borrower shall be deemed to have requested a Committed Loan of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of

50

---

the unutilized portion of the Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if promptly (and, in any event, on the same Business Day) confirmed in writing; provided that the lack of such a prompt confirmation shall not affect the conclusiveness or binding effect of such notice.

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

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Committed Loan of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

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

(v) Each Lender's obligation to make Committed Loans or L/C Advances to reimburse an L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Committed Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse an L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

51

---

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

(d) Repayment of Participations.

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

(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

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

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

52

---

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

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



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

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

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

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

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

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

(f) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, no L/C Issuer shall have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the

53

---

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

(g) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by an L/C Issuer and the Borrower when a Letter of Credit is issued, the rules of the ISP or UCP shall apply to each Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to the Borrower for, and no L/C Issuer's rights and remedies against the Borrower shall be impaired by, any action or inaction of such L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where the applicable L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance, subject to Section 2.17, with its Applicable Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate times the daily amount available to be drawn under such Letter of Credit. For purposes of

54

---

computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the expiry date with respect to such Letter of Credit and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders, while any Event of Default is continuing, all Letter of Credit Fees shall accrue at the Default Rate.

(i) **Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer.** The Borrower shall pay directly to the applicable L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate per annum equal to the greater of (a) 0.125% multiplied by the daily amount available to be drawn under such Letter of Credit and (b) \$500, computed on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the expiry date of such Letter of Credit and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to the applicable L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) **Conflict with Issuer Documents.** In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of any Issuer Document, including a letter of credit application on an L/C Issuer's standard form or any other agreement submitted by the Borrower to, or entered into by the Borrower with, an L/C Issuer relating to any Letter of Credit, the terms hereof shall control.

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

(l) **Outstanding Letters of Credit.** Within 10 days of the end of each month, each L/C Issuer shall deliver to the Administrative Agent, for distribution to the Lenders, an accounting of all Letters of Credit issued by such L/C Issuer and outstanding as of the end of such month.

#### 2.04 [Intentionally Omitted].

55

---

#### 2.05 Prepayments.

(a) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (i) such notice must be in a form reasonably acceptable to the Administrative Agent and be received by the Administrative Agent not later than 11:00 a.m. (A) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (B) on the date of prepayment of Base Rate Committed Loans; (ii) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (iii) any prepayment of Base Rate Committed Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Committed Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that any such notice of prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities or the closing of another transaction, the proceeds of which will be used to prepay any outstanding Committed Loans, in which case such prepayment may be conditional upon the effectiveness of such other credit facilities or the closing of such other transaction. For the avoidance of doubt, any such conditional notice that does not result in a prepayment on the proposed prepayment date set forth in such notice shall be subject to the provisions of Section 3.05. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.17, each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages.

(b) If for any reason Availability is at any time less than zero (\$0) (including if due to the exclusion of a Borrowing Base Asset pursuant to Section 2.18(b), or if due to a change in the Appraised Value of a Borrowing Base Asset upon any reappraisal required or permitted under the Agreement), the Borrower shall within two Business Days prepay Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(b) unless after the prepayment in full of the Committed Loans, Availability is less than zero (\$0).

**2.06 Termination or Reduction of Commitments.** The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Commitments, or from time to time permanently reduce the Aggregate Commitments; provided, that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three (3) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or a whole multiple thereof, (iii) the Borrower shall not terminate or reduce the Aggregate Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, Availability would be less than zero (\$0) after giving effect to such reduction, and (iv) if, after giving effect to any reduction of the Aggregate Commitments, the

56

---

Letter of Credit Sublimit exceeds the amount of the Aggregate Commitments, such Sublimit shall be automatically reduced by the amount of such excess. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Commitments. Any reduction of the Aggregate Commitments shall be applied to the Commitment of each Lender according to its Applicable Percentage. All fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

**2.07 Repayment of Loans.** The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of Committed Loans outstanding on such date.

#### 2.08 Interest.

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate; and (ii) each Base Rate

Committed Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

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

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

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

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

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

57

---

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

(a) Revolving Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Applicable Percentage, (i) commencing on the six month anniversary of the Closing Date until the Investment Grade Pricing Effective Date, a commitment fee (the "Commitment Fee") equal to the Applicable Fee Rate times the actual daily amount by which the Aggregate Commitments exceed the sum of (x) the Outstanding Amount of Committed Loans and (y) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in Section 2.17, and (ii) at all times on and after the Investment Grade Pricing Effective Date, a facility fee (the "Facility Fee") equal to the Applicable Rate times the actual daily amount of the Aggregate Commitments (or, if the Aggregate Commitments have terminated, on the Outstanding Amount of all Committed Loans and L/C Obligations), regardless of usage, subject to adjustment as provided in Section 2.17. The Commitment Fee and Facility Fee shall accrue at all times during the Availability Period (and thereafter so long as any Committed Loans or L/C Obligations remain outstanding), including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the six month anniversary of the Closing Date, and on the last day of the Maturity Date (and, if applicable, thereafter on demand). The Commitment Fee and the Facility Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Fee Rate or the Applicable Rate, as applicable, during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Fee Rate or the Applicable Rate, as the case may be, separately for each period during such quarter that such Applicable Fee Rate or Applicable Rate was in effect.

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

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

**2.10 Computation of Interest and Fees.** All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

58

---

**2.11 Evidence of Debt.**

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

(b) In addition to the accounts and records referred to in subsection (a) above, each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of

any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

## 2.12 Payments Generally; Administrative Agent's Clawback.

(a) **General.** Except as otherwise expressly provided in Section 3.01, all payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) **Funding by Lenders; Presumption by Administrative Agent.** Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Committed Loan of Eurodollar Rate Loans (or, in the case of any Committed Loan of Base Rate Loans, prior to 12:00 noon on the date of such Committed Loan) that such Lender will not make

59

---

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

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

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

(c) **Failure to Satisfy Conditions Precedent.** If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in

60

---

Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) **Obligations of Lenders Several.** The obligations of the Lenders hereunder to make Committed Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment under Section 10.04(c).

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

**2.13 Sharing of Payments by Lenders.** If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Committed Loans made by it, or the participations in L/C Obligations held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Committed Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Committed Loans and subparticipations in L/C Obligations of the other Lenders, or make such other adjustments

as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Committed Loans and other amounts owing them, provided that:

- (i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and
- (ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.16, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations to any assignee or participant, other than an assignment to the Borrower or any Affiliate thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing

61

---

arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

#### **2.14 Extension of Maturity Date.**

(a) Requests for Extension. The Borrower may, by written notice to the Administrative Agent (such notice, an “Extension Notice”) (who shall promptly notify the Lenders) not earlier than ninety (90) days and not later than thirty (30) days prior to (i) the Initial Maturity Date extend the Maturity Date for an additional one year period from the Initial Maturity Date (such new Maturity Date, the “Extended Maturity Date”) and (ii) the Extended Maturity Date extend the Maturity Date for an additional one year period from the Extended Maturity Date subject, in each case, to Sections 2.14(b) and (c).

(b) Conditions to Effectiveness of Extensions. As conditions precedent to the effectiveness of each such extension of the Maturity Date, each of the following requirements shall be satisfied or waived on or prior to the Initial Maturity Date or the Extended Maturity Date, as applicable, as determined in good faith by the Administrative Agent (in each case, the first date on which such conditions precedent are satisfied or waived, the “Extension Effective Date”):

- (i) The Administrative Agent shall have received an Extension Notice within the period required under Section 2.14(a) above;
- (ii) On the date of such Extension Notice and both immediately before and immediately after giving effect to such extension of the Maturity Date, no Default shall have occurred and be continuing;
- (iii) On the Extension Effective Date, immediately after giving effect to the extension of the Initial Maturity Date or the Extended Maturity Date, as the applicable, Total Asset Value shall be at least (x) \$900,000,000 in the case of an extension of the Initial Maturity Date, and (y) \$1,250,000,000 in the case of an extension of the Extended Maturity Date;
- (iv) The Borrower shall have paid to the Administrative Agent, for the pro rata benefit of the Lenders based on their respective Applicable Percentages as of such date, an extension fee in an amount equal to 0.15% multiplied by the Aggregate Commitments as in effect on the date the proposed extension is to become effective (it being agreed that such extension fee shall be fully earned when paid and shall not be refundable for any reason); and
- (v) The Administrative Agent shall have received a certificate of the Borrower dated as of the applicable Extension Effective Date signed by a Responsible Officer of the Borrower (i) certifying and attaching the resolutions adopted by each Loan Party approving or consenting to such extension and (ii) certifying that, before and after giving effect to such extension, (A) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after

62

---

giving effect to such qualification)) on and as of the date the proposed extension is to become effective, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after giving effect to such qualification)) as of such earlier date, and except that for purposes of this Section 2.14, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and (B) no Default exists.

(c) Reaffirmation by Loan Parties. If requested by the Administrative Agent, the Borrower and the other Loan Parties shall have delivered to the Administrative Agent such reaffirmations of their respective obligations under the Loan Documents (after giving effect to the extension), and acknowledgments and certifications that they have no claims, offsets or defenses with respect to the payment or performance of any of the Obligations, including, without limitation, reaffirmations of the Pledge Agreement and the Guaranty.

- (d) Effectiveness of Extension. Any such extension of the Maturity Date shall become effective on the Extension Effective Date.
- (e) Conflicting Provisions. This Section shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

#### **2.15 Increase in Commitments; Addition of Incremental Term Loan Facilities.**

(a) Request for Increase. Upon notice to the Administrative Agent (which shall promptly notify the Lenders), the Borrower may from time to time prior to the then applicable Maturity Date, request an increase in the Aggregate Commitments (each such increase, an “Incremental Revolving Increase”) or add one or more tranches of term loans (each an “Incremental Term Loan Facility”; each Incremental Term Loan Facility and each Incremental Revolving Increase are collectively referred to as “Incremental Facilities”) by an amount (for all such Incremental Facilities) not exceeding \$200,000,000; provided that (i) there exists no Default, (ii) each increase must be in a minimum amount of \$10,000,000 and in integral multiples of \$5,000,000 in excess thereof (or such other amounts as are agreed to by the Borrower and the Administrative Agent), and (iii) the conditions to the making of a Credit Extension set forth in clause (e) of this Section 2.15 shall be satisfied or waived. At the time of sending such notice, the Borrower (in consultation with the Administrative Agent) shall specify the Lenders to be approached to provide all or a portion of such increase (subject in each case to any requisite consents required under Section 10.06) and the time period within which each such Lender is requested to respond (which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to such Lenders).

(b) Lender Elections to Increase. Each applicable Lender shall notify the Administrative Agent within the time period for response described in Section 2.15(a) whether or not it agrees to participate in the requested Incremental Facility and, if so, whether by an amount equal to, greater than, or less than the portion of the requested Incremental Facility offered to it. Any Lender not responding within such time period shall be deemed to have declined to

63

---

participate in the requested Incremental Facility. No Lender shall be required to increase its Revolving Commitment or make term loans under the Incremental Term Loan Facility, as applicable, to facilitate such Incremental Facility.

(c) Notification by Administrative Agent; Additional Lenders. The Administrative Agent shall notify the Borrower and each Lender of the Lenders’ responses to each request made hereunder. Subject to the approval of the Administrative Agent (which approvals shall not be unreasonably withheld, delayed or conditioned) and, in the case of an Incremental Revolving Increase, each L/C Issuer, the Borrower may also invite additional Eligible Assignees to become Lenders pursuant to a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and its counsel (a “New Lender Joinder Agreement”).

(d) Effective Date and Allocations. If the Revolving Commitments are increased or term loans shall be made under any Incremental Term Loan Facility, as applicable, in accordance with this Section 2.15, the Administrative Agent and the Borrower shall determine the effective date (the “Increase Effective Date”) and the final allocation of such Incremental Facility. The Administrative Agent shall promptly notify the Borrower and the Lenders of the final allocation of such Incremental Facility and the Increase Effective Date.

(e) Conditions to Effectiveness of Incremental Facility. As conditions precedent to the effectiveness of each such Incremental Facility, on or prior to the applicable Increase Effective Date:

(i) the Borrower shall deliver to the Administrative Agent a certificate of the Borrower dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of the Borrower:

(A) certifying and attaching the resolutions adopted by each Loan Party approving or consenting to such Incremental Facility,

(B) certifying that, before and after giving effect to such Incremental Facility, (1) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after giving effect to such qualification)) on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after giving effect to such qualification)) as of such earlier date, and except that for purposes of this Section 2.15, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, (2) no Default exists, (3) Availability;

64

---

(C) in the case of an Incremental Term Loan Facility, Availability shall equal or exceed zero (\$0) on a pro forma basis immediately after giving effect to the closing of such Incremental Term Loan Facility; and

(D) in the case of an Incremental Term Loan Facility, the Loan Parties will be in compliance with the provisions of Section 7.11 on a pro forma basis immediately after giving the closing of such Incremental Term Loan Facility;

(ii) the conditions of the Lenders providing such Incremental Facility shall be satisfied or waived;

(iii) the Administrative Agent shall have received (x) a New Lender Joinder Agreement duly executed by the Borrower and each Eligible Assignee, if any, that is becoming a Lender in connection with such Incremental Facility, which New Lender Joinder Agreement shall be acknowledged and consented to in writing by the Administrative Agent and, in the case of an Incremental Revolving Increase, each L/C Issuer and (y) written confirmation from each existing Lender, if any, participating in such Incremental Facility of the amount by which its Commitment will be increased, in the case of an Incremental Revolving Increase, which confirmation shall be acknowledged and consented to in writing each L/C Issuer, or the amount of the term loan to be made by such Lender, in the case of an Incremental Term Loan Facility;

(iv) if requested by the Administrative Agent or any new Lender or Lender participating in the Incremental Facility, the Administrative Agent shall have received a favorable opinion of counsel (which counsel shall be reasonably acceptable to the Administrative Agent), addressed to the Administrative Agent and each Lender, as to such customary matters concerning the Incremental Facility as the Administrative Agent may reasonably request;

(v) the Borrower shall provide a Note to any new Lender joining on the Increase Effective Date, if requested;

(vi) if a Mortgage in favor of the Administrative Agent exists at such time on a Borrowing Base Asset, then the Administrative Agent shall have received evidence, in form and substance satisfactory to the Administrative Agent, that no Improvements located on such mortgaged Real Property Asset are located within a Special Flood Hazard Area or, if any are, evidence that the flood insurance prescribed herein has been obtained; and

(vii) the Borrowers shall have paid to the Bookrunner, for its own account, the fee required to be paid pursuant to the Fee Letter.

(f) Settlement Procedures. On each Increase Effective Date, promptly following fulfillment of the conditions set forth in clause (e) of this Section 2.15, the Administrative Agent shall notify the Lenders of the occurrence of the Incremental Facility effected on such Increase Effective Date and, in the case of a Revolving Credit Increase, the amount of the Commitments and the Applicable Percentage of each Lender as a result thereof, and in the case of an Incremental Term Loan Facility, the allocated portion and applicable percentage of each Lender

65

---

participating in such Incremental Term Loan Facility and each such participating Lender shall make a term loan to the Borrowers equal to its allocated portion of such Incremental Term Loan Facility. In the event that an Incremental Revolving Increase results in any change to the Applicable Percentage of any Lender, then on the Increase Effective Date, as applicable, (i) the participation interests of the Lenders in any outstanding Letters of Credit shall be automatically reallocated among the Lenders in accordance with their respective Applicable Percentages after giving effect to such increase, (ii) any new Lender, and any existing Lender whose Commitment has increased, shall pay to the Administrative Agent such amounts as are necessary to fund its new or increased Applicable Percentage of all existing Committed Loans, (iii) the Administrative Agent will use the proceeds thereof to pay to all existing Lenders whose Applicable Percentage is decreasing such amounts as are necessary so that each Lender's share of all Committed Loans, will be equal to its adjusted Applicable Percentage, and (iv) the Borrowers shall pay any amounts required pursuant to Section 3.05 on account of the payments made pursuant to clause (iii) of this sentence.

(g) Amendments. In the case of an Incremental Term Loan Facility, this Agreement and the other Loan Documents may be amended as necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.15 with the consent of the Administrative Agent, each Lender providing such Incremental Term Loan Facility and the Borrower, to give effect to or to evidence the terms of such Incremental Term Loan Facility.

(h) Conflicting Provisions. This Section shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

## 2.16 Cash Collateral.

(a) Certain Credit Support Events. If (i) an L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, (iii) the Borrower shall be required to provide Cash Collateral pursuant to Section 8.02(c), or (iv) there shall exist a Defaulting Lender, the Borrower shall immediately (in the case of clause (iii) above) or within one Business Day (in all other cases) following any request by the Administrative Agent or the applicable L/C Issuer, either (x) in the case of clause (i) or (ii) above, repay the subject L/C Borrowing or L/C Obligation, if applicable, or (y) provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.17(a)(iv)) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative

66

---

Agent or the L/C Issuers as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. The Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.16 or Sections 2.03, 2.05, 2.17 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(vi))) or (ii) the determination by the Administrative Agent and the L/C Issuers that there exists excess Cash Collateral; provided, however, (x) Cash Collateral furnished by or on behalf of the Borrower shall not be released during the continuance of a Default (and following application as provided in this Section 2.16 may be otherwise applied in accordance with Section 8.03), and (y) the Person providing Cash Collateral and the L/C Issuers may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

## 2.17 Defaulting Lenders.

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

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 10.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any L/C Issuer

67

---

hereunder; *third*, to Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.16; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.16; *sixth*, to the payment of any amounts owing to the Lenders or the L/C Issuers as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any L/C Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.17(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.17(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any Commitment Fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such Commitment Fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive (x) Facility Fees payable under Sections 2.09(a) for any period during which that Lender is a Defaulting Lender only to extent allocable to the sum of (1) the outstanding principal amount of the Committed Loans funded by it, and (2) its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.16 and (y) Letter of Credit Fees for any

68

---

period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.16.

(C) With respect to any Facility Fee payable under Section 2.09(a) or any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the L/C Issuers the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. Subject to Section 10.20, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.16.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and the L/C Issuers agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Committed Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their



Applicable Percentages (without giving effect to Section 2.17(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender

to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

## **2.18 Inclusions, Exclusions and Removals of Borrowing Base Assets.**

(a) Inclusions of Borrowing Base Assets. As of the Closing Date, the Borrowing Base Assets listed on Schedule 2.18 (the "Borrowing Base Assets List") shall be the initial Borrowing Base Assets. Additional Ground Net Lease Assets that qualify as Eligible Ground Net Lease Assets and additional Loan Assets that qualify as Eligible Loan Assets may be offered by the Borrower (each such offered Ground Net Lease Asset and each such offered Loan Asset, a "Nominated Asset"), and shall be included as Borrowing Base Assets in accordance with the following and any other applicable terms and conditions contained in this Agreement (or as otherwise agreed by the Borrower and Required Lenders):

(i) Request for Inclusion of Borrowing Base Assets. The Borrower from time to time may request that a Nominated Asset be approved and included as a Borrowing Base Asset by delivering a written request therefor (the "Nominated Asset Notice") to the Administrative Agent and the Lenders at least thirty (30) days (or such shorter period of time as agreed to by the Administrative Agent in writing) prior to the date proposed in such written request for the inclusion of such Nominated Asset as a Borrowing Base Asset (such date, the "Proposed Inclusion Date"), which notice shall be accompanied by copies of all ground net lease documentation with respect to such Nominated Asset or the underlying mortgaged Real Property Asset with respect to such Nominated Asset, a list of the Subsidiaries comprising the Direct Owner of the Nominated Asset and each Indirect Owner of the Direct Owner and their U.S. taxpayer identification numbers, the street address(es) and legal description of the Nominated Asset, together with a "Standard Flood Hazard Determination Form" for such Nominated Asset;

(ii) Diligence of Nominated Asset. The Borrower shall at its expense provide the Administrative Agent (for distribution to the Lenders) with the following due diligence materials and information with respect to any Nominated Asset at least thirty (30) days (or such shorter period of time as agreed to by the Administrative Agent in writing) prior to the Proposed Inclusion Date for such Nominated Asset:

(A) an Appraisal dated no earlier than one hundred twenty (120) days prior to the Proposed Inclusion Date (or such other date as the Administrative Agent shall agree in writing);

(B) an underwriting report prepared by the Borrower describing in reasonable detail the Nominated Asset and the diligence and analysis performed by the Borrower with respect to such Ground Net Lease Asset or such Loan Asset and the underlying mortgaged Real Property Asset, including, to the extent applicable to such type of Nominated Asset, a description of the location, lease terms, tenant lists, property operating statements, loan performance data, information regarding the ground lessee and tenants and their creditworthiness, and issues pertaining to the management and operation of the Nominated Asset and/or the underlying mortgaged Real Property Asset, in each case, consistent

with the underwriting reports provided by the Borrower with respect to the Initial Borrowing Base Assets and solely to the extent such information is available to, or expected to be made available to, a Loan Party and are not subject to confidentiality restrictions limiting the ability of the Loan Parties to provide same;

(C) a title report showing (w) in the case of a Ground Net Lease Asset, that a Wholly-Owned Subsidiary of the Borrower is the fee owner and ground lessor of the Nominated Asset, subject to no encumbrances (including no mortgages) except Permitted Property Encumbrances and other encumbrances approved by the Administrative Agent, (x) in the case of a Loan Asset, that the fee owner, ground lessor and ground lessee of the underlying mortgaged Real Property Asset is not an Affiliate of the Borrower (provided that to the extent that such information cannot be ascertained from the title report, a written certification of the Borrower may be used to satisfy the requirement that fee owner, ground lessor and ground lessee of the underlying mortgaged Real Property Asset is not an Affiliate of the Borrower), and such underlying mortgaged Real Property Asset is subject to no encumbrances other than Permitted Property Encumbrances, encumbrances set forth in the documentation for the Loan Asset and the underlying mortgage and any other encumbrances approved by the Administrative Agent, (y) a legal description of the Nominated Asset or the underlying mortgaged Real Property Asset, as applicable, and (z) no title defects exist that could have a material effect on the marketability of the Nominated Asset or the underlying mortgaged Real Property Asset, along with copies of all exceptions to title shown on such title report, and estoppel certificates from the relevant ground lessee and such other parties to such exception documents as the Administrative Agent may specify;

(D) a Survey dated no more than sixty (60) days prior to the Proposed Inclusion Date in form and substance satisfactory to the Administrative Agent;

(E) a current Phase I Environmental Assessment report addressed to the Administrative Agent and prepared by a qualified environmental consultant reasonably acceptable to the Administrative Agent together with a Phase II Environmental Assessment report and any other additional reports and assessments to the extent recommended by the environmental consultant in the Phase I Environmental Assessment, which reports shall be dated no more than ninety (90) days prior to the Proposed Inclusion Date (or such other date agreed to in writing by the Administrative Agent) and shall otherwise be in form and substance satisfactory to the Administrative Agent and in accordance with its guidelines (or if no such guidelines exist, generally accepted industry standards), including a certification by a qualified engineer of such firm that such engineer, or a person working under his/her supervision, (a) has obtained and examined the list of prior owners of the Nominated Asset, (b) has investigated registrations or other listings of the Nominated Asset on appropriate databases, (c) has made an on-site physical examination of such Nominated Asset and (d) has made a visual observation of the surrounding areas and has found no evidence of the presence of

Hazardous Materials, or of past or present Hazardous Materials activities, except as disclosed in such report;

- (F) evidence that the Nominated Asset or the underlying mortgaged Real Property Asset constitutes a separate lot for zoning and tax purposes;
- (G) a duly completed Compliance Certificate as of the last day of the fiscal quarter of the Borrower most recently ended prior to the Proposed Inclusion Date, giving pro forma effect to the inclusion of such Nominated Asset as a Borrowing Base Asset and to the Credit Extension, if any, anticipated to be made contemporaneously with the inclusion of such Nominated Asset or the proceeds of which are expected to be used to acquire such Nominated Asset;
- (H) a fully completed Borrowing Base Certificate with the information set forth therein being as of the date of delivery of the Nominated Asset Notice and giving pro forma effect to the inclusion of such Nominated Asset as a Borrowing Base Asset to the Credit Extension, if any, anticipated to be made contemporaneously with the inclusion of such Nominated Asset or the proceeds of which are expected to be used to acquire such Nominated Asset;
- (I) UCC, judgment, tax, bankruptcy and litigation searches with respect to the Subsidiary that is (or will be) the Direct Owner of such Nominated Asset, each Subsidiary that is (or will be) an Indirect Owner of such Direct Owner, and, in the case of an asset acquisition, the seller of such Nominated Asset;
- (J) financial and operating results (for the most recent twelve (12) month period) for the Nominated Asset setting forth in such format as previously submitted by the Borrower on account of other Borrowing Base Assets or otherwise as the Administrative Agent may reasonably accept (in each case, solely to the extent such information is available to, or is expected to be made available to, a Loan Party);
- (K) projections of Net Operating Income of all of the Borrowing Base Assets (including the Nominated Asset) for the twelve (12) full calendar month period following the date of the Proposed Inclusion Date (in each case, solely to the extent such information is available to, or is expected to be made available to, a Loan Party);
- (L) such other items pertaining to such Nominated Asset and each Subsidiary of the Borrower that is the Direct Owner of such Nominated Asset or an Indirect Owner of such Direct Owner as the Administrative Agent or any Lender may reasonably request, including all documentation and other information that the Administrative Agent or any Lender requests in order to comply with its obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act, and the results of any such "know your customer" or similar investigation conducted by the

Administrative Agent or any Lender shall be reasonably satisfactory to the Administrative Agent or such Lender in all respects.

(iii) Approval of Nominated Asset. The Administrative Agent shall have the right to accept or reject any Nominated Asset with, (x) in the case of a Ground Net Lease Asset, an Appraised Value, and (y) in the case of a Loan Asset, a Loan Asset Value, of \$25,000,000 or less. The Administrative Agent and the Required Lenders shall have the right to accept or reject any Nominated Asset with (x) in the case of a Ground Net Lease Asset, an Appraised Value, and (y) in the case of a Loan Asset, a Loan Asset Value, greater than \$25,000,000. Any Lender that fails to notify the Administrative Agent within 10 days after receipt of the items set forth in clause (ii)(A) through (M) above shall be deemed to have approved the inclusion of the Nominated Asset as a Borrowing Base Asset. The Administrative Agent shall endeavor to notify the Borrower in writing within twenty (20) days after receipt of the Nominated Asset Notice whether or not the Administrative Agent and, as applicable, the Required Lenders elect to reject such Nominated Asset as set forth in the first two sentences of this paragraph and, if no notice is received by the Borrower by such time, such Nominated Asset shall be deemed approved.

(iv) Conditions to Nominated Assets Being Included as Borrowing Base Assets. The inclusion of any Nominated Asset approved by the Administrative Agent or by the Administrative Agent and the Required Lenders pursuant to Section 2.18(a)(iii) as a Borrowing Base Asset, is subject to satisfaction of the following conditions precedent (and such Nominated Asset shall be included as a Borrowing Base Asset hereunder commencing on the date on which all such conditions precedent are satisfied (unless waived in writing by the Administrative Agent), (such date, the "Inclusion Effective Date")):

(A) the Borrower shall deliver, or cause to be delivered, to the Administrative Agent, at the Borrower's sole expense, each of which shall be originals, or e-mail (in a .pdf format) or facsimiles (followed promptly by originals) unless otherwise specified, each of which documents to be signed by any Subsidiary shall be properly executed by a Responsible Officer of such signing Subsidiary and dated as of the Inclusion Effective Date and each in form and substance satisfactory to the Administrative Agent and the Required Lenders:

(I) if the Proposed Inclusion Date is prior to the Investment Grade Release, a joinder agreement in substantially the form attached hereto as Exhibit H, together with all of the items described in Sections 4.01(a)(iv), 4.01(a)(v) and 4.01(a)(viii), with respect to each Subsidiary of the Borrower that is the Direct Owner of such Nominated Asset or an Indirect Owner of such Direct Owner (in each case to the extent not already a Subsidiary Guarantor);

(II) if the Proposed Inclusion Date is prior to the Investment Grade Release, a joinder agreement and/or pledge amendment with respect to the Pledge Agreement, in form and substance reasonably satisfactory to the Administrative Agent, pursuant to which the Equity Interests in the Direct Owner

of such Nominated Asset and the Indirect Owners of such Direct Owner shall be pledged in favor of the Administrative Agent for the benefit of the Secured Parties (in each case to the extent not already pledged as Collateral);

(B) if the Proposed Inclusion Date is prior to the Investment Grade Release, the Administrative Agent shall have received a Perfection Certificate Supplement and such other agreements and documents, and evidence that all other actions, recordings and filings have been or will contemporaneously be taken, in each case that the Administrative Agent may reasonably deem necessary or desirable in order to create or perfect the Liens created under the Pledge Agreement (including the delivery of the certificates representing any Equity Interests in any Person that have been pledged pursuant to the Pledge Agreement together with undated stock powers or other appropriate instruments of transfer executed and delivered in blank by a duly authorized officer of the holder(s) of such Equity Interests and the filing of UCC-1 financing statements and/or UCC-3 amendments, as applicable, in form and substance satisfactory to the Administrative Agent and the Required Lenders);

(C) the Administrative Agent shall have received all such termination statements and other documents as may be necessary to terminate all Liens on such Nominated Asset and the Collateral, other than Permitted Property Encumbrances and Permitted Equity Encumbrances;

(D) if the Proposed Inclusion Date is prior to the Investment Grade Release, the Borrower shall have provided, or caused to be provided, to the Administrative Agent evidence (which shall include certificates of insurance acceptable to the Administrative Agent and its insurance consultant) that all insurance policies required to be in effect with respect to pursuant to the terms of this Agreement are in effect with respect to the Nominated Asset and the underlying mortgaged Real Property Asset, together with evidence of the payment of premiums therefor that are then due and payable;

(E) the Borrower shall have delivered to the Administrative Agent, if required by the Administrative Agent, favorable opinions of counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, in form and substance reasonably satisfactory to the Administrative Agent, and as to such matters as the Administrative Agent may reasonably request concerning the Loan Documents and Loan Parties executing Loan Documents, all Persons that are becoming Loan Parties in connection with the inclusion of such Nominated Asset as a Borrowing Base Asset, such Nominated Asset and any Collateral;

(F) the Borrower shall have delivered to the Administrative Agent a certificate of a Responsible Officer certifying (1) that no Default has occurred and is continuing or would result from the inclusion of such Nominated Asset as a Borrowing Base Asset; (2) that all financial and operating information delivered to the Administrative Agent pursuant to Section 2.18(a)(ii), to the knowledge of the Borrower, contains no material misstatement of fact or omit to state any

74

---

material fact that would make such information not be true and correct; and (3) that such property satisfies (or will satisfy concurrently with such inclusion and the satisfaction of the conditions precedent in this Section 2.18(a)(iv)) each of the criteria set forth in the definition of Eligible Ground Net Lease Asset or Eligible Loan Asset, as applicable, and would not be required to be excluded as a Borrowing Base Asset pursuant to Section 2.18(b);

(G) a fully completed Borrowing Base Certificate with the information set forth therein being as of the Inclusion Effective Date and giving pro forma effect to the inclusion of such Nominated Asset as a Borrowing Base Asset to the Credit Extension, if any, anticipated to be made contemporaneously with the inclusion of such Nominated Asset or the proceeds of which are expected to be used to acquire such Nominated Asset;

(H) a duly completed Compliance Certificate as of the last day of the fiscal quarter of the Borrower most recently ended prior to the Inclusion Effective Date, giving pro forma effect to the inclusion of such Nominated Asset as a Borrowing Base Asset and to the Credit Extension, if any, anticipated to be made contemporaneously with the inclusion of such Nominated Asset or the proceeds of which are expected to be used to acquire such Nominated Asset;

(I) an updated Borrowing Base Assets List; and

(J) if the Proposed Inclusion Date is after the occurrence of a Springing Mortgage Covenant Event relating to clause (a) or (b) of the definition thereof, the Borrower shall have caused the Direct Owner of the Nominated Asset to execute (as applicable) and/or deliver to the Administrative Agent each of the items described in Section 6.12(a).

(v) Appraisals. Any delay in the completion of the Appraisals of the Nominated Assets shall be the sole risk of the Borrower; provided, however, the Administrative Agent shall use good faith efforts to obtain or otherwise approve the applicable Appraisals as soon as reasonably possible.

(b) Exclusion of Borrowing Base Assets. Any of the following shall result in the Appraised Value, in the case of a Ground Net Lease Asset, or the Loan Asset Value, in the case of a Loan Asset, of the applicable Borrowing Base Asset being deemed to be zero:

(i) Loss of Eligibility Status. Immediately, if such Borrowing Base Asset fails to satisfy any of the criteria set forth in the definition of Eligible Ground Net Lease Asset or Eligible Loan Asset, as applicable, (unless each such failure is susceptible to cure within a period of fifteen (15) Business Days and the Loan Parties have undertaken to cure each such failure within such period, in which case the Appraised Value or the Loan Asset Value, as applicable, of such Borrowing Base Asset will remain at the then existing Appraised Value or Loan Asset Value, as applicable, and only be considered to be zero at the end of such period in the event that such Borrowing Base Asset fails to satisfy all of the applicable criteria prior thereto).

75

- (ii) Dispositions. Immediately, upon a Disposition of all assets comprising such Borrowing Base Asset.
  - (iii) Releases. Immediately, upon the release of such Borrowing Base Asset pursuant to Section 2.18(c).
- (c) Removal of Borrowing Base Assets and Releases of Collateral and Subsidiary Guarantors.
- (i) Upon satisfaction of each of the Release Conditions with respect to any proposed Release Transaction, the release contemplated by such Release Transaction shall be effective automatically and without further action of any Person and:
    - (A) if the proposed Release Transaction involves release of a Subsidiary Guarantor from its obligations under the Guaranty, the Administrative Agent shall, at the sole expense of the Borrower, execute and deliver such documents as the Loan Parties may reasonably request as necessary or desirable to evidence the release of the applicable Subsidiary Guarantor from its obligations under the Guaranty;
    - (B) if the proposed Release Transaction involves release of the Lien of the Administrative Agent on any Loan Asset or Ground Net Lease Asset, the Administrative Agent shall, at the sole expense of the Borrower, execute and deliver such documents as the Loan Parties may reasonably request as necessary or desirable to evidence the release of the Lien of the Administrative Agent on such Loan Asset or Ground Net Lease Asset; and
    - (C) if the proposed Release Transaction involves release of the Lien of the Administrative Agent on any Equity Interest in a Subsidiary Guarantor or owned, directly or indirectly by a Subsidiary Guarantor, the Administrative Agent shall, at the sole expense of the Borrower, execute and deliver such documents as the Loan Parties may reasonably request as necessary or desirable to evidence the release of the Lien of the Administrative Agent on such Equity Interest and/or the release of the applicable Subsidiary Guarantor from its obligations under the Pledge Agreement (including, in the case of this clause (C) and clauses (A) and (B) above, executing documents reasonably in advance to the extent practicable in order to facilitate releases, including placing documents into escrow on terms acceptable to the Administrative Agent);
  - (ii) For the avoidance of doubt:
    - (A) upon a release pursuant to a Release Transaction of the type contemplated in either clause (i)(A) or (i)(C) above, all Borrowing Base Assets owned or ground leased, directly or indirectly, by the applicable Subsidiary Guarantor shall be removed from the calculation of the Borrowing Base Amount; and

76

- (B) upon a release pursuant to a Release Transaction of the type contemplated in clause (i)(B) above, the Loan Asset or the Ground Net Lease Asset, as applicable, that is the subject of the Lien release shall be removed from the calculation of the Borrowing Base Amount.
- (iii) The Administrative Agent shall promptly notify the Lenders following the consummation of any proposed Release Transaction.
- (iv) It is understood and agreed that no release pursuant to this Section 2.18(c) shall impair or otherwise adversely affect the Liens, security interests, guarantees and other rights of the Administrative Agent or the Secured Parties under the Loan Documents not being released (or as to the parties to the Loan Documents and the Collateral subject to the Loan Documents not being released).

### ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY

#### 3.01 Taxes.

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

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

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

(iii) If any Loan Party or the Administrative Agent shall be required by any applicable Laws other than the Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the

77

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

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

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

(ii) Each Lender and each L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender or such L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (y) the Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender or such L/C Issuer, in each case, that are payable or paid by the Administrative Agent or a Loan Party in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and each L/C Issuer hereby authorizes the Administrative Agent to

78

---

set off and apply any and all amounts at any time owing to such Lender or such L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

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

(e) Status of Lenders; Tax Documentation.

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

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

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

79

---

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

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable); or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-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 G-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative

80

---

Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

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

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

**3.02 Illegality**. If any Lender determines in good faith that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or

81

---

its Lending Office to perform any of its obligations hereunder or make, maintain or fund or charge interest with respect to any Credit Extension or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such

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

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

82

---

Borrowing of, conversion to or continuation of Eurodollar Rate Loans (to the extent of the affected Eurodollar Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Committed Loan of Base Rate Loans in the amount specified therein.

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

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

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

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

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

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

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such L/C Issuer, the Borrower will pay to such Lender or such L/C

83

---

Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any L/C Issuer determines that any Change in Law affecting such Lender or such L/C Issuer or any Lending Office of such Lender or such Lender's or such L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such L/C Issuer's capital or on the capital of such Lender's or such L/C Issuer's holding company,

if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such L/C Issuer, to a level below that which such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such L/C Issuer's policies and the policies of such Lender's or such L/C Issuer's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company for any such reduction suffered.

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

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

(e) **Reserves on Eurodollar Rate Loans.** The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant

84

---

Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such notice.

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

- (a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);
- (b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or
- (c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

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

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

**3.06 Mitigation Obligations; Replacement of Lenders.**

(a) **Designation of a Different Lending Office.** Each Lender may make any Credit Extension to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Credit Extension in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender, any L/C Issuer, or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower such Lender or such L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or such L/C Issuer, as the case may be, to unreimbursed costs or expense and would not otherwise be disadvantageous to such Lender or such L/C Issuer, as the case may be. The Borrower hereby agrees to pay all reasonable costs and

85

---

expenses incurred by any Lender or any L/C Issuer in connection with any such designation or assignment.

(b) **Replacement of Lenders.** If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 10.13.



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

#### ARTICLE IV. CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

**4.01 Conditions of Effectiveness.** The effectiveness of this Agreement is subject to satisfaction of the following conditions precedent:

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

- (i) executed counterparts of this Agreement, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower;
- (ii) a Note executed by the Borrower in favor of each Lender requesting a Note;
- (iii) in each case, solely with respect to Collateral required to be granted on the Closing Date (and for the avoidance of doubt and notwithstanding anything to the contrary herein, excluding as Collateral the Equity Interest of the Operating Partnership and any direct or indirect owner thereof) a pledge agreement (together with each pledge agreement supplement delivered pursuant to Section 2.18(a), as amended, the "Pledge Agreement"), duly executed by the applicable Grantors, together with:
  - (A) certificates or instruments, if any, representing the Collateral pledged thereunder accompanied by all endorsements and/or powers required by the Pledge Agreement,
  - (B) evidence that (x) all proper financing statements have been or contemporaneously therewith will be duly filed under the Uniform Commercial Code of all applicable jurisdictions and (y) all applicable perfection requirements that the Administrative Agent reasonably may deem necessary or desirable in

86

---

order to perfect the Liens created under the Pledge Agreement, covering the Collateral described in the Pledge Agreement,

- (C) completed requests for information listing all effective financing statements filed in the jurisdictions referred to in clause (B) above that name any Grantor as debtor, together with (x) copies of such other financing statements and (y) if any such financing statement covers Collateral, termination statements (or similar documents) for filing in all applicable jurisdictions as may be necessary to terminate any such effective financing statements (or equivalent filings), and
- (D) a Perfection Certificate duly executed by each Grantor;
- (E) evidence that all other actions, recordings and filings that the Administrative Agent may deem reasonably necessary or desirable in order to perfect the Liens created under the Pledge Agreement have been taken;
- (iv) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;
- (v) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;
- (vi) a favorable opinion of Clifford Chance US LLP, counsel to the Loan Parties, and Venable LLP, special Maryland counsel to the Borrower, addressed to the Administrative Agent and each Lender, as to such matters concerning the Loan Parties and the Loan Documents as the Required Lenders may reasonably request;
- (vii) a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;
- (viii) a certificate signed by a Responsible Officer of the Borrower (x) certifying that (1) the conditions specified in Sections 4.02(a) and (b) have been satisfied, (2) there has been no event or circumstance since the date of the Audited Financial Statements that has had or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect, (3) the Borrower is not subject to any present or contingent Environmental Claim which, if adversely determined, would reasonably be expected to

87

---

have a Material Adverse Effect on the Borrower, and (4) no action, suit, investigation or proceeding is pending or, to the knowledge of any Loan Party, threatened in any court or before any arbitrator or Governmental Authority that (A) relates to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or thereby, or (B) would reasonably be expected, either individually or in the aggregate, to have a

Material Adverse Effect and (y) attaching copies of the Organization Documents of each Person whose Equity Interests are included in the Collateral, if any, which Organization Documents shall (1) in the reasonable opinion of the Administrative Agent, permit the Administrative Agent to realize on such Collateral upon the occurrence and during the continuance of an Event of Default and (2) otherwise be in form and substance reasonably satisfactory to the Administrative Agent;

(ix) a fully completed Compliance Certificate as of the last day of the fiscal quarter of the Borrower most recently ended as of the Closing Date ended for which financial statements of the Borrower are available, giving pro forma effect to the transactions to occur on the Closing Date (including, without limitation, all Credit Extensions to occur on the Closing Date) and including in reasonable detail the calculations required to establish compliance with the covenants set forth in Section 7.11 and setting forth a calculation of the covenants described in the definition of Springing Mortgage Covenant Event;

(x) evidence of a successful initial public offering (the “IPO”) and concurrent private placement by the Borrower, with minimum Net Proceeds of \$246,000,000 therefrom after giving effect to concurrent payment of transaction expenses incurred in connection with the Loan Documents, the IPO and related transactions; provided that at least \$190,000,000 of such Net Proceeds shall be from the IPO; and

(xi) such other assurances, certificates, documents and consents as the Administrative Agent, any L/C Issuer or the Required Lenders reasonably may require.

(b) Any fees required to be paid on or before the Closing Date shall have been paid.

(c) Unless waived by the Administrative Agent, the Borrower shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

88

---

**4.02 Conditions to all Credit Extensions.** The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type, or a continuation of Eurodollar Rate Loans, which, in either case, shall be subject only to the condition precedent set forth in clause (e) below) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after giving effect to such qualification)) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after giving effect to such qualification)) as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01.

(b) No Default shall be continuing, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, an L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) The Administrative Agent shall have received a Borrowing Base Certificate from the Borrowers with the information set forth therein being as of the date of such requested Borrowing (and giving pro form effect thereto).

(e) After giving effect to the proposed Loan, Availability equals or exceeds zero (\$0).

Each Request for Credit Extension submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a), (b) and (e) have been satisfied on and as of the date of the applicable Credit Extension (except that a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type or a continuation of Eurodollar Rate Loans shall be deemed to be a representation that the condition precedent set forth in clause (e) above has been satisfied on and as of the date of the applicable Credit Extension).

## ARTICLE V. REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

**5.01 Existence, Qualification and Power.** Each Loan Party and each Subsidiary thereof (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its

89

---

obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case

referred to in clause (b)(i) or (c), to the extent that failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

**5.02 Authorization; No Contravention.** The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien (other than Liens created under the Collateral Documents) under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law, except, in each case under clauses (b)(ii) and (c) with respect to any such contravention, violation or conflict that would not reasonably be expected to have a Material Adverse Effect.

**5.03 Governmental Authorization; Other Consents.** No approval, consent, exemption, authorization, or other action by, or notice to, or filing, recording or registration with, or exemption by, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document to which it is a party or the consummation of any of the transactions contemplated thereby, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the first priority nature thereof) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, other than approvals, consents, exemptions, authorizations, actions, notices, filings recordings and registrations that have already been duly made or obtained and remain in full force and effect.

**5.04 Binding Effect.** This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as enforceability may be limited by applicable insolvency, bankruptcy or other similar laws affecting creditors rights generally, or general principles of equity, whether such enforceability is considered in a proceeding in equity or at law.

**5.05 Financial Statements; No Material Adverse Effect.**

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted

90

---

therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries (assuming that each Consolidated Party existing as of the Closing Date existed as of the date of such Audited Financial Statements and that the transactions required to effectuate the IPO shall have occurred) as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material Indebtedness and (to the extent required by GAAP) other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof.

(b) The financial statements furnished pursuant to subsection (b) of Section 6.01 (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since December 31, 2016, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(d) As set forth in the Form S-11, the unaudited pro forma financial data of the Borrower and its Subsidiaries as and for the years ended December 31, 2016 and December 31, 2015 (assuming that each Consolidated Party existing as of the Closing Date existed as of December 31, 2016 and December 31, 2015 and that the transactions required to effectuate the IPO shall have occurred), certified by the chief financial officer or treasurer of the Borrower, copies of which have been furnished to each Lender, fairly present the consolidated pro forma financial condition of the Borrower and its Subsidiaries as at such date and the consolidated pro forma results of operations of the Borrower and its Subsidiaries for the period ended on such date, all in accordance with GAAP.

(e) The consolidated forecasted balance sheet and statements of income and cash flows of the Borrower and its Subsidiaries delivered pursuant to Section 6.01(c) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, the Borrower's best estimate of its future financial condition and performance.

**5.06 Litigation.** There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened in writing or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) in which there is a reasonable possibility of an adverse decision which, if adversely decided, would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

**5.07 No Default.** Neither any Loan Party nor any Subsidiary thereof is in default beyond any applicable grace period under or with respect to any Contractual Obligation that

91

---

would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document. To the best of the Borrower's knowledge after due inquiry, no Material Event in respect of any Borrowing Base Asset has occurred.

## 5.08 Ownership of Property; Liens.

(a) Each of the Borrower and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) The Borrowing Base Assets, the Equity Interests in each Direct Owner of a Borrowing Base Asset and each Indirect Owner of each such Direct Owner, and the right to any income from any of the foregoing, are subject to no Liens other than Liens permitted by Section 7.01.

**5.09 Environmental Compliance.** Except with respect to any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Restricted Subsidiaries (a) has failed to comply with any applicable Environmental Laws, (b) has incurred any Environmental Liability, (c) has received notice of any claim with respect to any Environmental Liability or (d) knows of any facts or conditions that would reasonably be expected to result in any Environmental Liability.

## 5.10 Insurance.

(a) The Loan Parties are in compliance with the requirements of Section 6.07, and no Loan Party, nor, to any Loan Party's knowledge, any other Person, has done, by act or omission, anything which would materially and adversely impair the coverage of any such policy.

(b) No portion of any Collateral is, under the FDPA, in a Special Flood Hazard Area, or within a Flood Zone designated A or V in a participating community, or, if in such an area or zone, flood insurance is maintained therefor in full compliance with the provisions of Section 6.07.

**5.11 Taxes.** The Borrower and its Subsidiaries have filed all U.S. federal income tax returns and all other material tax returns which are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by the Borrower or any Subsidiary, except (i) such taxes, if any, as are being contested in good faith by appropriate proceedings and are reserved against in accordance with GAAP or (ii) such tax returns or such taxes, the failure to file when due or to make payment when due and payable would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Borrower and its Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Borrower, adequate. There is no proposed tax assessment against the Borrower or any Subsidiary that would, if made, have a

---

Material Adverse Effect. Neither the Borrower nor any Subsidiary is party to any tax sharing agreement.

## 5.12 Compliance with ERISA.

(a) Except as set forth on Schedule 5.12, neither the Borrower nor any other Loan Party is a member of or has entered into, maintained, contributed to, or been required to contribute to, or may incur any liability with respect to any Plan or Multiemployer Plan. There are no pending or, to the best knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect. No Termination Event has occurred, and neither the Borrower nor any member of the ERISA Group is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in a Termination Event with respect to any Plan, in each case that could reasonably be expected to have a Material Adverse Effect. Except as could not be reasonably expected to have a Material Adverse Effect individually or in the aggregate (i) there has been no filing pursuant to Section 412 of the Code or Section 302 of ERISA of an application for a waiver of the minimum funding standards with respect to any Plan; (ii) there has been no failure to make by its due date any required installment under Section 430(j) of the Code with respect to any Plan nor a failure by the Borrower nor any member of the ERISA Group to make any required contribution to a Multiemployer Plan; (iii) there has been no determination that any Plan is or is expected to be in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (iv) the present value of all accrued benefits under each Plan (determined based on the assumptions used by such Plans pursuant to Section 430(h) of the Code) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed by more than an immaterial amount the value of the assets of such Plan (as determined pursuant to Section 430(g) of the Code) allocable to such accrued benefits, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of ASC Topic 715-30) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than an immaterial amount the fair market value of the assets of all such underfunded Plans; (v) each employee benefit plan maintained by the Borrower or any of its Subsidiaries or any Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the Internal Revenue Service indicating that such employee benefit plan or Plan is so qualified and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code or an application for such a letter is currently pending before the Internal Revenue Service and, to the knowledge of Borrower, nothing has occurred subsequent to the issuance of the determination letter which would cause such employee benefit plan or Plan to lose its qualified status; and (vi) no liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Plan or any trust established under Title IV of ERISA has been or is expected to be incurred by any member of the ERISA Group other than in the ordinary course. The Borrower and its Subsidiaries have no contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in article 6 of Title 1 of ERISA, and except as would not be reasonably expected to have a Material Adverse Effect. In the event that at any time after the Closing Date,

---

the Borrower or any other Loan Party shall sponsor or contribute to any other material Plan or Multiemployer Plan, the Borrower promptly shall notify the Administrative Agent thereof (and from and after such notice, Schedule 5.12 shall be deemed modified thereby).

(b) No assets of the Borrower or any other Loan Party constitute "assets" (within the meaning of ERISA or Section 4975 of the Code, including, but not limited to, 29 C.F.R. § 2510.3-101 or any successor regulation thereto) of an "employee benefit plan" within the meaning of Section 3(3) of ERISA that is subject to Title I of ERISA or a "plan" within the meaning of, and subject to, Section 4975(e)(1) of the Code. In addition to the prohibitions set

forth in this Agreement and the other Loan Documents, and not in limitation thereof, the Borrower covenants and agrees that the Borrower shall not, and shall not permit any other Loan Party to, use any “assets” (within the meaning of ERISA or Section 4975 of the Code, including but not limited to 29 C.F.R. § 2510.3101) of an “employee benefit plan” within the meaning of Section 3(3) of ERISA that is subject to Title I of ERISA or a “plan” within the meaning of, and subject to, Section 4975(e)(1) of the Code to repay or secure the Note, the Loan, or the Obligations.

(c) As of the Closing Date neither the Borrower nor any Loan Party will be (1) an employee benefit plan subject to Title I of ERISA, (2) a plan or account subject to Section 4975 of the Code; or (3) a “governmental plan” within the meaning of ERISA.

**5.13 Subsidiaries; Equity Interests.** As of the Closing Date, the Borrower has no Subsidiaries other than those specifically disclosed in Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and nonassessable and are owned, directly or indirectly, by a Loan Party in the amounts specified on Schedule 5.13. All of the outstanding Equity Interests in each Loan Party are owned, directly or indirectly, by the Borrower free and clear of all Liens other than Permitted Equity Encumbrances. All of the outstanding Equity Interests in the Borrower have been validly issued and are fully paid and nonassessable.

**5.14 Margin Regulations; Investment Company Act.**

(a) The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. All proceeds of the Loans will be used by the Borrower only in accordance with the provisions hereof. Neither the making of any Loan nor the use of the proceeds thereof will violate or be inconsistent with the provisions of regulations T, U, or X of the Federal Reserve Board.

(b) None of the Borrower, any Person Controlling the Borrower, or any Subsidiary is (x) an “investment company” or a company “controlled” by an “investment company”, within the meaning of the Investment Company Act of 1940, as amended, or (y) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

94

---

**5.15 Disclosure.** All information heretofore furnished by the Borrower or any other Consolidated Party to the Administrative Agent or any Lender for purposes of or in connection with this Agreement or any transaction contemplated hereby or thereby is true and accurate in all material respects on the date as of which such information is stated or certified; provided that, with respect to projected financial information, the Borrower represents and warrants only that such information represents the Borrower’s expectations regarding future performance, based upon historical information and reasonable assumptions, it being understood, however, that actual results may differ from the projected results described in the financial projections and was prepared in good faith based upon assumptions believed to be reasonable at the time.

**5.16 Compliance with Laws.** The Borrower and each Subsidiary thereof is in compliance with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

**5.17 Taxpayer Identification Number.** Each Loan Party’s true and correct U.S. taxpayer identification number is set forth on Schedule 10.02.

**5.18 Anti-Corruption Laws and Sanctions; Anti-Money Laundering.**

(a) Each Loan Party and Subsidiary thereof has implemented and maintains in effect policies and procedures designed to ensure compliance by such Person and their respective directors, officers and employees with Anti-Corruption Laws and applicable Sanctions, and the Loan Parties, their respective Subsidiaries and their respective officers and employees, and to the knowledge of each Loan Party and Subsidiary thereof its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower being designated as a Sanctioned Person. None of the Loan Parties, any of their respective Subsidiaries, nor, to the knowledge of any Loan Party and its Subsidiaries, any director, officer, employee, or affiliate thereof, is a Sanctioned Person. No Credit Extension, use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or applicable Sanctions.

(b) No Loan Party or any Subsidiaries thereof, nor, to the knowledge of any Loan Party, any of its Affiliates or respective officers, directors, or employees (i) has violated or is in violation of any applicable Anti-Money Laundering Laws or (ii) has engaged or engages in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of offenses designated in any applicable law, regulation or other binding measure implementing the “Forty Recommendations” and “Nine Special Recommendations” published by the Organisation for Economic Cooperation and Development’s Financial Action Task Force on Money Laundering.

**5.19 Solvency.** The Borrower, together with its Subsidiaries, taken as a whole, is Solvent.

95

---

**5.20 Principal Offices.** As of the Closing Date, the principal office, chief executive office and principal place of business of each Loan Party is 1114 Avenue of the Americas, New York, NY 10036.

**5.21 REIT Status and Stock Exchange Listing.** The Borrower is organized and operated in a manner that allows it to qualify as a REIT, and it will elect to qualify to be taxed as a REIT commencing with its taxable year ending December 31, 2017. Upon consummation of the IPO, each class of the Borrower’s common Equity Interests will be listed on the New York Stock Exchange.

**5.22 No Burdensome Agreements.** Except as may have been disclosed by the Borrower in writing to the Lenders prior to the Closing Date or that would otherwise be permitted under the Loan Documents, neither the Borrower nor any other Loan Party is a party to any agreement or instrument or subject to any other obligation or any charter or corporate or partnership restriction, as the case may be, which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

**5.23 Collateral Documents.** The provisions of the Collateral Documents are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority Lien (subject to Permitted Property Encumbrances and Permitted Equity Encumbrances, as applicable) on all right, title and interest of the respective Grantors in the Collateral described therein. Except as contemplated by the Collateral Documents, no filing or other action will be necessary to perfect or protect such Liens.

**5.24 Organization Documents.** The documents delivered pursuant to Section 4.01(a)(v) constitute, as of the Closing Date, all of the organizational documents (together with all amendments and modifications thereof) of the Borrower and each Loan Party. The Borrower represents that it has delivered to the Administrative Agent true, correct and complete copies of each such document.

**5.25 Borrowing Base Assets.** Each Loan Asset and Ground Net Lease Asset included in any calculation of Borrowing Base Amount, at the time of such calculation, satisfied each of the criteria set forth in the definition of Eligible Loan Asset or Eligible Ground Net Lease Asset, as applicable.

**5.26 EEA Financial Institutions.** No Loan Party is an EEA Financial Institution.

## ARTICLE VI. AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (in each case, other than contingent indemnification and reimbursement obligations for which no claim has been asserted), or any Letter of Credit shall remain outstanding (that has not been Cash Collateralized):

**6.01 Financial Statements.** The Borrower shall deliver to the Administrative Agent for further distribution to each Lender:

96

---

(a) as soon as available, but in any event within 95 days after the end of each fiscal year of the Borrower (or, if earlier, 5 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders' equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year (or in the case of the December 31, 2017 statements, the figures set forth in the Audited Financial Statements), all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of PricewaterhouseCoopers LLP or another independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit;

(b) as soon as available, but in any event within 50 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (or, if earlier, 5 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)) (commencing with the fiscal quarter ended June 30, 2017), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, the related consolidated statements of income or operations for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, and the related consolidated statements of changes in shareholders' equity, and cash flows for the portion of the Borrower's fiscal year then ended, in each case (commencing with the fiscal quarter ending June 30, 2018) setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, certified by the chief executive officer, chief financial officer, treasurer or controller of the Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower, forecasts prepared by management of the Borrower, in form satisfactory to the Administrative Agent, of consolidated balance sheets and statements of income or operations and cash flows of the Borrower and its Subsidiaries on a quarterly basis for such fiscal year (including the fiscal year in which the Maturity Date occurs).

As to any information contained in materials furnished pursuant to Section 6.02(d), the Borrower shall not be separately required to furnish such information under subsection (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in subsections (a) and (b) above at the times specified therein.

**6.02 Certificates; Other Information.** The Borrower shall deliver to the Administrative Agent for further distribution to each Lender:

(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b) (commencing with the delivery of the financial statements for the fiscal

97

---

quarter ended March 31, 2017), a duly completed Compliance Certificate (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes), including a calculation, in form and substance reasonably satisfactory to the Administrative Agent, of Availability as of the last day of the fiscal period covered by such Compliance Certificate;

(b) on a quarterly basis (and in any case within 15 Business Days after the last day of each quarter), or more frequently if requested by the Administrative Agent upon the occurrence and during the continuance of a Default or a Material Event, a Borrowing Base Certificate;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Borrower, and copies of all annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) promptly after the furnishing thereof, copies of any material statement or report furnished to any holder of debt securities of any Loan Party or any Subsidiary thereof pursuant to the terms of any material indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(e) promptly, and in any event within five (5) Business Days after receipt thereof by the Borrower or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of the Borrower or any Subsidiary thereof;

(f) promptly, and in any event, within five (5) Business Days after receipt thereof by a Loan Party, any material amendments, consents or waivers with respect to any Eligible Loan Asset or Eligible Ground Net Lease Asset and entered into or delivered on or after the Closing Date; and

(g) promptly, such additional information regarding the business, financial or corporate affairs of the Borrower or any Subsidiary, compliance with the terms of the Loan Documents, or with respect to any Eligible Loan Asset, Eligible Ground Net Lease or Collateral, in each case, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(c) or (d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if

---

any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arranger may, but shall not be obligated to, make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar, or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that (w) all Borrower Materials that are requested on not less than three (3) Business Days' notice to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arranger, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

**6.03 Notices.** The Borrower shall promptly (and in any event within five (5) Business Days after any officer of any Loan Party obtains knowledge thereof) notify the Administrative Agent and each Lender:

- (a) of the occurrence of any Default;
- (b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect;

---

(c) and in any event notify the Administrative Agent and each Lender within thirty (30) days, if and when any member of the ERISA Group (i) gives or is required to give notice to the PBGC of any "reportable event" (as defined in Section 4043 of ERISA) with respect to any Plan which might reasonably constitute grounds for a termination of such Plan under Title IV of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC; (ii) receives notice of complete or partial withdrawal liability under Title IV of ERISA or notice that any Multiemployer Plan is in Insolvency or has been terminated, a copy of such notice; (iii) receives notice from the PBGC under Title IV of ERISA of an intent to terminate, impose liability (other than for premiums under Section 4007 of ERISA) in respect of, or appoint a trustee to administer any Plan, a copy of such notice; (iv) applies for a waiver of the minimum funding standard under Section 412 of the Code, a copy of such application; (v) gives notice of intent to terminate any Plan under Section 4041(c) of ERISA, a copy of such notice and other information filed with the PBGC; (vi) gives notice of withdrawal from any Plan pursuant to Section 4063 of ERISA, a copy of such notice; or (vii) fails to make any payment or contribution to any Plan or Multiemployer Plan or makes any amendment to any Plan which has resulted or could result in the imposition of a Lien or the posting of a bond or other security, and, in the case of any occurrence covered by any of clauses (i) through (vii) above, which occurrence would reasonably be expected to result in a Material Adverse Effect;

(d) (i) the receipt by the Borrower, or any of the Environmental Affiliates of any communication (written or oral), whether from a Governmental Authority, citizens group, employee or otherwise, that alleges that the Borrower, or any of the Environmental Affiliates, is not in compliance with applicable Environmental Laws, and such noncompliance would reasonably be expected to have a Material Adverse Effect, (ii) the existence of any Environmental Claim pending against the Borrower or any Environmental Affiliate and such Environmental Claim would reasonably be expected to have a

Material Adverse Effect or (iii) any release, emission, discharge or disposal of any Hazardous Material that would reasonably be expected to form the basis of any Environmental Claim against the Borrower or any Environmental Affiliate or would reasonably be expected to interfere with the Borrower's Business or the fair saleable value or use of any of its Properties, which in any such event would reasonably be expected to have a Material Adverse Effect;

- (e) the occurrence of any Material Event with respect to, or any material event of default under or related to, any Borrowing Base Asset;
- (f) of any material change in accounting policies or financial reporting practices by the Borrower or any Subsidiary; and
- (g) of any announcement by Moody's, S&P or Fitch of any change or possible change in a Debt Rating; provided, that the provisions of this clause (g) shall not apply until the Investment Grade Pricing Effective Date.

Each notice pursuant to this Section 6.03 (other than Section 6.03(g)) shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with

100

---

particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

**6.04 Payment of Obligations.** The Borrower shall, and shall cause each Subsidiary to, pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all federal and state and other tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary or the failure to pay or discharge would not reasonably be expected to result in a Material Adverse Effect and (b) all lawful claims which, if unpaid, would by law become a Lien upon any Borrowing Base Asset or any Collateral (in each case, other than Permitted Equity Encumbrances and Permitted Property Encumbrances, as applicable).

**6.05 Preservation of Existence, Etc.** (a) The Borrower shall, and shall cause each Subsidiary to, preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except (i) in a transaction permitted by Section 7.04 or 7.05 or (ii) solely in the case of a Subsidiary that is not a Loan Party, to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect and (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

**6.06 Maintenance of Properties.** The Borrower shall or shall cause (a) all properties of the Consolidated Group (including each of their respective Real Property Assets and equipment necessary in the operation of its business) to be maintained, preserved and protected in good working order and condition, ordinary wear and tear and casualty and condemnation excepted and (b) to be made all necessary repairs thereto and renewals and replacements thereof except, in each case under clauses (a) and (b), where the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

**6.07 Maintenance of Insurance.**

(a) Subject to the requirements of Section 6.07(b) with respect to Collateral, the Borrower shall maintain or cause to be maintained, with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to properties of the Consolidated Parties and businesses against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business and owning similar properties in localities where the Borrower or the applicable Consolidated Party operates, of such types and covering such risks, and in such amounts and with such deductibles, as are customarily carried under similar circumstances by such other Persons. Upon the reasonable request of the Administrative Agent from time to time the Borrower shall furnish or cause to be furnished to the Administrative Agent certificates of insurance evidencing the insurance carried on the properties of the Consolidated Parties.

(b) With respect to each Real Property Asset that constitutes Collateral, the Borrower shall, and shall cause each Subsidiary to, or shall cause the lessee or mortgagor with respect to

101

---

such Real Property Asset to, maintain: (i) property insurance with respect to all Improvements and other insurable components of such Real Property Asset (excluding anything not owned by the applicable Direct Owner), against loss or damage by fire, lightning, windstorm, explosion, hail, tornado and such additional hazards as are presently included in "Special Form" (also known as "all-risk") coverage and against any and all acts of terrorism and such other insurable hazards as the Administrative Agent may require, in an amount not less than 100% of the full replacement cost, including the cost of debris removal, without deduction for depreciation and sufficient to prevent any Consolidated Party and the Administrative Agent from becoming a coinsurer, such insurance to be in "builder's risk" completed value (non reporting) form during and with respect to any construction on such Real Property Asset; (ii) if and to the extent any portion of the Improvements on such Real Property Asset is, under the FDPA, in a Special Flood Hazard Area, within a Flood Zone designated A or V in a participating community, a flood insurance policy in an amount at least equal to the amount (as determined by the Administrative Agent in good faith) sufficient to meet the requirements of applicable Law and the FDPA, as such requirements may from time to time be in effect; (iii) general liability insurance, on an "occurrence" basis, against claims for "personal injury" liability, including bodily injury, death or property damage liability, for the benefit of the applicable Direct Owner as named insured and the Administrative Agent as additional insured; (iv) statutory workers' compensation insurance with respect to any work on or about such Real Property Asset (including employer's liability insurance, if required by the Administrative Agent), covering all employees of each Subsidiary Guarantor (if any); (v) business interruption for Landlord's rental income in an amount not less than the amount of gross rents payable in a 12 month period and which shall provide an extended period of indemnity endorsement for 360 days on an actual loss sustained basis; and (vi) such other insurance on such Real Property Asset and endorsements as may from time to time be required by the Administrative Agent (including automobile liability insurance, boiler and machinery insurance, earthquake insurance, wind insurance, sinkhole coverage, and/or permit to occupy endorsement) and against other insurable hazards or casualties which at the time are commonly insured against in the case of premises similarly situated, due regard being given to the height, type, construction, location, use and occupancy of buildings and improvements. All insurance policies shall be issued and maintained by insurers, in amounts, with deductibles, limits and retentions, and in forms reasonably satisfactory to the Administrative Agent, and shall require



not less than thirty (30) days' prior notice to the Administrative Agent of termination, lapse or cancellation of such insurance. All insurance companies must be licensed to do business in the state in which such Real Property Asset is located and must have an A.M. Best Company financial and performance ratings of A-:IX or better. All such insurance policies, except for general liability insurance, shall provide that each such policy shall be primary without right of contribution from any other insurance that may be carried by the Borrower, any of its Subsidiaries or the Administrative Agent and that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured. If any insurer which has issued a policy of title, hazard, liability or other insurance required pursuant to this Agreement or any other Loan Document becomes insolvent or the subject of any petition, case, proceeding or other action pursuant to any Debtor Relief Law, or if in the Administrative Agent's reasonable opinion the financial responsibility of such insurer is or becomes inadequate, the Borrower shall, in each instance promptly upon its discovery thereof or upon the written request of the Administrative Agent therefor, and at the Borrower's expense, promptly obtain and deliver to the Administrative Agent a like policy (or, if and to the extent

---

permitted by the Administrative Agent, acceptable evidence of insurance) issued by another insurer, which insurer and policy meet the requirements of this Agreement or such other Loan Document, as the case may be. Without limiting the discretion of the Administrative Agent with respect to required endorsements to insurance policies, all such policies for loss of or damage to such Real Property Asset (including business interruption and delayed rental insurance) shall contain a standard mortgagee clause (without contribution) naming the Administrative Agent as mortgagee and loss payee with loss proceeds payable to the Administrative Agent notwithstanding (w) any act, failure to act or negligence of or violation of any warranty, declaration or condition contained in any such policy by any named or additional insured; (x) the occupation or use of such Real Property Asset for purposes more hazardous than permitted by the terms of any such policy; (y) any foreclosure or other action by the Administrative Agent under the Loan Documents; or (z) any change in title to or ownership of such Real Property Asset or any portion thereof, such proceeds to be held for application as provided in the Loan Documents. The Borrower shall pay or cause to be paid all premiums on policies required hereunder as they become due and payable. If any loss occurs at any time when the Borrower has failed to perform the Borrower's covenants and agreements in this Section 6.07(b) with respect to any insurance payable because of loss sustained to any part of such Real Property Asset whether or not such insurance is required by the Administrative Agent, the Administrative Agent shall nevertheless be entitled to the benefit of all insurance covering the loss and held by or for any Consolidated Party to the same extent as if it had been made payable to the Administrative Agent.

(c) The Borrower shall (i) deliver to the Administrative Agent the certificates evidencing each renewal or substitute insurance policy required pursuant to Section 6.07(b) (or to the extent permitted by the Administrative Agent, a copy of the original policy and such evidence of insurance acceptable to the Administrative Agent), with all premiums fully paid current, at least ten (10) days before the termination of the policy it renews or replaces and (ii) promptly deliver to the Administrative Agent evidence satisfactory to the Administrative Agent of the timely payment of all premiums on the policies required pursuant to Section 6.07(b).

(d) The Borrower shall, and shall cause each Subsidiary to, comply or cause compliance with the requirements of the insurance policies required hereunder and of the issuers of such policies and of any board of fire underwriters or similar body as applicable to or affecting any Real Property Asset constituting Collateral.

(e) The Administrative Agent may retain, at the Borrower's sole expense, an independent insurance consultant to evaluate the sufficiency of the insurance to be carried pursuant to Section 6.07(b) and to advise the Administrative Agent with respect to such other insurance as may be necessary and prudent to protect the Secured Parties' security for repayment of the Obligations; provided, however, that, so long as no Event of Default shall have occurred and be continuing, the Borrower shall only be obligated to pay for such independent evaluation one (1) time per calendar year.

(f) Upon any foreclosure of any Mortgage or transfer of title to any Real Property Asset in extinguishment of the whole or any part of the Obligations, all of the Loan Parties' right, title and interest in and to the insurance policies referred to in Section 6.07 (including unearned premiums) and all Insurance Proceeds payable thereunder shall thereupon vest in the

---

purchaser at foreclosure or other such transferee, to the extent permissible under such policies. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent shall have the right (but not the obligation) to make proof of loss for, settle and adjust any claim under, and receive all Insurance Proceeds for loss of or damage to each Real Property Asset constituting Collateral, regardless of whether or not any insurance policies are required by the Administrative Agent, and the expenses incurred by the Administrative Agent, including reasonable attorneys' fees, in the adjustment and collection of insurance proceeds shall be a part of the Obligations and shall be due and payable to the Administrative Agent on demand. The Administrative Agent shall not be, under any circumstances, liable or responsible for failure to collect or exercise diligence in the collection of any of such proceeds or for the obtaining, maintaining or adequacy of any insurance or for failure to see to the proper application of any amount paid over to any Loan Party unless determined by a court of competent jurisdiction by a final and nonappealable judgment to arise from the bad faith, gross negligence or willful misconduct of the Administrative Agent. Upon the occurrence and during the continuance of an Event of Default, any Insurance Proceeds received by the Administrative Agent shall, after deduction therefrom of all expenses incurred by the Administrative Agent, including reasonable attorneys' fees, at the Administrative Agent's option be (i) released to the Borrower, (ii) applied (upon compliance with such terms and conditions as may be required by the Administrative Agent) to the restoration, either partly or entirely, of the Real Property Asset so damaged, or (iii) applied to the payment of the Obligations in such order and manner as the Administrative Agent, in its sole discretion, may elect, whether or not due. In any event, the unpaid portion of the Obligations shall remain in full force and effect and the payment thereof shall not be excused.

**6.08 Compliance with Laws.** The Borrower shall, and shall cause each Subsidiary to, comply with all Laws and requirements of Governmental Authorities (including, without limitation, Environmental Laws and all zoning and building codes with respect to its Real Property Assets and ERISA and the rules and regulations thereunder and all federal securities laws) except where (i) the necessity of compliance therewith is contested in good faith by appropriate proceedings or (ii) the failure to do so would not reasonably be expected to have a Material Adverse Effect or expose the Administrative Agent or Lenders to any material liability therefor.

**6.09 Books and Records.** The Borrower shall, and shall cause each Subsidiary to, maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower or such Subsidiary, as the case may be.

**6.10 Inspection Rights.** The Borrower shall, and shall cause each Subsidiary to, permit representatives and independent contractors of the Administrative Agent and each Lender on five (5) Business Days' advance notice to the Borrower, to visit and inspect, subject to the rights of the lessees under Ground Net Leases, any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, in the case of Real Estate Assets subject to a Ground Net Lease, subject, except with respect to examining its corporate, financial and operating records, to the rights of the lessees under such Ground Net Leases, all at the expense of the Borrower and at such reasonable times during

104

---

normal business hours, upon reasonable advance notice to the Borrower (and with the Borrower and its representatives in attendance); provided, that unless an Event of Default has occurred and is continuing, such visits shall be limited to once in any calendar year and only one such visit by the Administrative Agent per calendar year shall be at the expense of the Borrower; provided further, the Administrative Agent, the Lenders and their representatives shall use commercially reasonable efforts to minimize disruption with the business of the lessees under the Ground Net Leases and disturbance of such lessees in violation of the applicable Ground Net Leases.

**6.11 Use of Proceeds.** The Borrower shall, and shall cause each Subsidiary to, use the proceeds of the Credit Extensions for general corporate purposes not in contravention of any Law or of any Loan Document.

**6.12 Springing Mortgage Requirement; Additional Subsidiary Guarantors.**

(a) Upon the occurrence of (x) a Springing Mortgage Covenant Event relating to clause (a) or (b) of the definition thereof, the Borrower shall cause the Direct Owner of each Borrowing Base Asset or (y), a Springing Mortgage Covenant Event relating to clause (c) of the definition thereof, the Borrower shall cause the Direct Owner of the applicable Borrowing Base Asset, to promptly (and in any event within sixty (60) days thereafter (or such later date as the Administrative Agent may agree in writing) execute (as applicable) and/or deliver to the Administrative Agent:

(i) a Mortgage, in form and substance reasonably satisfactory to the Administrative Agent, with the maximum secured amount recoverable in any jurisdiction imposing a mortgage recording, documentary stamp, intangibles or similar tax limited to the Appraised Value of such Borrowing Base Asset and subject only to such other modifications as may be required under local law, and/or such other Collateral Documents, in form and substance reasonably satisfactory to the Administrative Agent, as may be reasonably requested by the Administrative Agent, in each case together with related Uniform Commercial Code financing statements and instruments of transfer required by law or reasonably requested by the Administrative Agent to be filed in order to create in favor of the Administrative Agent a first priority perfected lien in such Borrowing Base Asset and in such other Collateral in connection therewith, and, in the case of a Loan Asset, to effect a transfer of the underlying loan and note documents to be possessed by the Administrative Agent, all of which shall be delivered to be so possessed and/or properly filed, registered or recorded in each jurisdiction in which the filing, registration or recordation thereof is so required or reasonably requested (and all mortgage recording or similar taxes, and all fees and charges in connection with such filing, registration or recording shall be paid);

(ii) a joinder agreement in substantially the form attached hereto as Exhibit H, (in each case to the extent such Direct Owner is not already a Subsidiary Guarantor)

(iii) such documents and certificates as Administrative Agent may reasonably request relating to the organization, existence and good standing of the Direct Owner of such Borrowing Base Asset, and the authorization of the transactions and documents

105

---

described in this Section, all in form and substance satisfactory to the Administrative Agent (in each case, to the extent not already executed and/or delivered);

(iv) favorable written legal opinions of counsel for the Loan Parties, covering matters customarily addressed in connection with the grant of a real estate mortgage and relating to the documents delivered pursuant to this Section as the Administrative Agent shall reasonably request, including favorable customary written opinions from local counsel to the Loan Parties in the jurisdiction in which any Collateral Documents or Uniform Commercial Code financing statements are to be filed, confirming the creation and perfection of the liens on and security interests in the Collateral, in form and substance satisfactory to the Administrative Agent;

(v) a title insurance policy and modifications to the existing "tie-in" endorsements, to the extent available, contained in the existing title insurance policies for such Borrowing Base Asset, in each case, in form and substance satisfactory to the Administrative Agent with the effect that, pursuant to such "tie-in" endorsements, the lien of the Mortgage on such Borrowing Base Asset, is insured for the aggregate of the amount of the individual title insurance policies, to the extent available;

(vi) evidence that no Improvements located on the Ground Net Lease Asset or the underlying mortgaged Real Property Asset, as applicable, are located within a Special Flood Hazard Area or, if any are, evidence that the flood insurance prescribed herein has been obtained, in each case, in form and substance satisfactory to the Administrative Agent;

(vii) evidence, in form and substance satisfactory to the Administrative Agent, that all insurance policies required to be in effect with respect to such Borrowing Base Asset pursuant to the terms of this Agreement are in effect;

(viii) if requested by the Administrative Agent, a physical inspection report addressed to the Administrative Agent prepared by an architect or engineer acceptable to the Administrative Agent and which physical inspection report shall be dated no more than ninety (90) days prior to the date of delivery thereof and shall otherwise be in form and substance satisfactory to the Administrative Agent and in accordance with its guidelines (or if no such guidelines exist, generally accepted industry standards), including a certification by a qualified engineer of such firm that such engineer has made an on-site physical examination of such Borrowing Base Asset, and including the estimated cost of any repair, improvement or other action;

(ix) such other documents, estoppels, opinions, information and materials, including any supplements, updates, bring downs and/or more recently prepared or dated versions of any items described in Section 2.18(a) and delivered on or prior to the Closing Date or pursuant Section 2.18(a), in each case without giving effect to whether the Investment Grade Release has occurred, with respect to such Borrowing Base Asset (each, in form and substance satisfactory to Administrative Agent), as may be reasonably requested by Administrative Agent; and

106

---

(x) payment of Administrative Agent's reasonable out-of-pocket counsel fees and other reasonable out-of-pocket costs and expenses incurred by Administrative Agent in connection with such Mortgage and other Collateral Documents.

(b) If any Subsidiary of the Operating Partnership that is not a Subsidiary Guarantor becomes a borrower or a guarantor of, or otherwise incurs a payment obligation in respect of, any Unsecured Debt (each such Subsidiary being referred to as a "New Subsidiary Guarantor"), then:

(i) within five (5) Business Days (or such longer period as the Administrative Agent shall agree) of such event, the Borrower shall:

(A) notify the Administrative Agent in writing of such event and the name of such New Subsidiary Guarantor;

(B) provide the Administrative Agent with the U.S. taxpayer identification for such New Subsidiary Guarantor; and

(C) provide the Administrative Agent and each Lender with all documentation and other information that the Administrative Agent or any Lender requests in order to comply with its obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act; and

(ii) within 30 days (or such longer period as the Administrative Agent shall agree) of such event, the Borrowers shall deliver, or cause to be delivered, to the Administrative Agent, at the Borrower's sole expense, each of which shall be originals, or e-mail (in a .pdf format) or facsimiles (followed promptly by originals) unless otherwise specified, each of which documents to be signed by any New Subsidiary Guarantor shall be properly executed by a Responsible Officer of such signing New Subsidiary Guarantor and each in form and substance satisfactory to the Administrative Agent and the Required Lenders:

(A) a joinder agreement in substantially the form attached hereto as Exhibit H, together with all of the items described in Sections 4.01(a)(iv), 4.01(a)(v) and 4.01(a)(viii) with respect to each New Subsidiary Guarantor (in each case to the extent not already a Subsidiary Guarantor); and

(B) if required by the Administrative Agent, favorable opinions of counsel to the Loan Parties, addressed to the Administrative Agent and each Lender as to such matters as the Administrative Agent may reasonably request concerning such New Subsidiary Guarantor and the Loan Documents to which such New Subsidiary Guarantor is a party.

(iii) Notwithstanding anything to the contrary contained in this Agreement, in the event that the results of any such "know your customer" or similar investigation conducted by the Administrative Agent with respect to any New Subsidiary Guarantor are not reasonably satisfactory to the Administrative Agent, such New Subsidiary

107

---

Guarantor shall not be permitted to become a Guarantor, and for the avoidance of doubt no Default shall occur as a result thereof.

**6.13 Anti-Corruption Laws.** The Borrower shall, and shall cause each Subsidiary to, conduct its businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions and maintain policies and procedures designed to promote and achieve compliance with such laws, in each case, in all material respects.

**6.14 Information Regarding Collateral.** The Borrower shall, and shall cause each Grantor to, provide the Administrative Agent not less than ten Business Days' prior written notice (in the form of certificate signed by a Responsible Officer), or such lesser notice period agreed to by the Administrative Agent, before effecting any change (i) in any Grantor's legal name, (ii) in the location of any Grantor's chief executive office, (iii) in any Grantor's identity or organizational structure, (iv) in any Grantor's U.S. taxpayer identification number or organizational identification number, if any, or (v) in any Grantor's jurisdiction of organization or incorporation (in each case, including by merging with or into any other entity, reorganizing, dissolving, liquidating, reorganizing or organizing in any other jurisdiction). Such notice shall clearly describe such change and provide such other information in connection therewith as the Administrative Agent may reasonably request. In addition, prior to any such change, the Borrower shall, and shall cause each Grantor to, take all action reasonably satisfactory to the Administrative Agent to maintain the perfection and priority of the security interest of the Administrative Agent for the benefit of the Secured Parties in the Collateral, if applicable. The Grantors hereby agree to promptly provide the Administrative Agent with certified Organization Documents reflecting any of the changes described in the preceding sentence. Notwithstanding the foregoing or anything else to the contrary contained herein or in any other Loan Document, the Borrower agrees that it will, and will cause each other Grantor to, at all times maintain its jurisdiction of organization as Delaware or one of the other States within the United States of America.

**6.15 Maintenance of REIT Status; Stock Exchange Listing.** The Borrower shall, at all times continue to (a) be organized and operated in a manner that will allow the Borrower to qualify as a REIT and (b) remain publicly traded with each class of its common Equity Interests listed on the New York Stock Exchange.

**6.16 Appraisals.** The Borrower shall, and shall cause each Subsidiary to, cause each of the Borrowing Base Assets at all times to be the subject of a Current Appraisal; reimburse the Administrative Agent for the cost of obtaining and reviewing any Appraisal obtained by the Administrative Agent (i) at the request of the Borrower, (ii) with respect to any Nominated Asset or Borrowing Base Asset or (iii) during an Event of Default; and cooperate with the Administrative Agent and its appraiser with respect to any such Appraisal, including by using reasonable best efforts to provide the appraisers with access

upon reasonable prior notice to the applicable property to be appraised, the books and records of the Direct Owner thereof and all assets or proposed assets subject to such appraisal.

**6.17 Further Assurances.** The Borrower shall, and shall cause each Loan Party to, promptly upon the reasonable request by the Administrative Agent, or any Lender through the

Administrative Agent, do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the full extent permitted by applicable Law, subject any Loan Party's properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party is or is to be a party.

#### ARTICLE VII. NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (in each case, other than contingent indemnification and reimbursement obligations for which no claim has been asserted), or any Letter of Credit shall remain outstanding (that has not been Cash Collateralized):

- 7.01 Liens.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Lien on:
- (a) any Borrowing Base Asset that is not Collateral (or any income from or proceeds of any thereof), other than Permitted Property Encumbrances;
  - (b) any Equity Interest in the Direct Owner of any Borrowing Base Asset if such Equity Interest is not Collateral (or any income from or proceeds of any thereof), other than Permitted Equity Encumbrances;
  - (c) any Equity Interest in any Indirect Owner of the Direct Owner of any Borrowing Base Asset if such Equity Interest is not Collateral (or any income from or proceeds of any thereof), other than Permitted Equity Encumbrances; or
  - (d) any Collateral, other than (i) Liens pursuant to any Loan Document, (ii) Liens that secure Secured Pari Passu Obligations, (iii) solely in the case of Collateral constituting Equity Interests, Permitted Equity Encumbrances and (iv) solely in the case of Collateral other than Equity Interests, Permitted Property Encumbrances;

or sign, file or authorize under the Uniform Commercial Code of any jurisdiction a financing statement that includes in its collateral description any portion of any Collateral, any Borrowing Base Asset, any Equity Interest in the Direct Owner of any Borrowing Base Asset, any Equity Interest in any Indirect Owner of the Direct Owner of any Borrowing Base Asset, or any income from or proceeds of any of the foregoing, except in each case, to perfect a Lien permitted pursuant to this [Section 7.01](#).

**7.02 Investments.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, make or hold any Investments, except:

- (a) Investments held in the form of cash or Cash Equivalents;
- (b) intercompany loans and advances among Consolidated Parties;
- (c) Investments in Ground Net Leases (including through the purchase or other acquisition of all of the Equity Interests of any Person that owns a Ground Net Lease);
- (d) Investments in unimproved land holdings (including through the purchase or other acquisition of all of the Equity Interests of any Person that owns unimproved land holdings);
- (e) Investments consisting of commercial mortgage or mezzanine loans (whether originated or acquired by a Consolidated Party);
- (f) Investments in Investment Affiliates (including through the purchase or other acquisition of Equity Interests in any Investment Affiliate);
- (g) Loans and advances to officers and employees for moving, entertainment, travel and other similar expenses in the ordinary course of business;
- (h) Guarantees permitted by [Section 7.03](#); and
- (i) Investments in Swap Contracts to the extent resulting in Indebtedness permitted under [Section 7.03](#).

provided that (i) the aggregate amount of all Investments of the type described in [clause \(d\)](#) of this [Section 7.02](#) shall not at any time exceed 10% of Total Asset Value and (ii) the aggregate amount of all Investments of the type described in [clauses \(d\), \(e\) and \(f\)](#) of this [Section 7.02](#) shall not at any time exceed 25% of Total Asset Value;

provided, further, that notwithstanding the foregoing, in no event shall any Investment of the types described in Section 7.02(c) through (e) be consummated if, (i) immediately before or immediately after giving effect thereto, an Event of Default shall have occurred and be continuing or would result therefrom (except with respect to the performance of any acquisition agreement entered into prior to the occurrence of any Default hereunder that results in an Investment of not more than \$25,000,000) or (ii) the Loan Parties would not be in compliance, on a pro forma basis, with the provisions of Section 7.11.

For purposes of this Section 7.02, determinations of whether an Investment is permitted will be made after giving effect to such Investment.

**7.03 Indebtedness.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) prior to the occurrence of the Investment Grade Release, Indebtedness arising under or in connection with any Swap Contract that is entered into in order to protect the Borrower and its Subsidiaries from fluctuations in interest rates on, or currency values with

110

respect to, Qualified Debt (including any anticipated refinancing thereof); provided that (i) prior to entering into such Swap Contract the Borrower has identified to the Administrative Agent in a written notice (each, a “Qualified Debt Notice”) the aggregate principal amount of all Qualified Debt immediately after giving effect to such Swap Contract becoming effective (which notice shall include a listing of each such Qualified Debt) and (ii) at the time such Swap Contract becomes effective and immediately after giving effect thereto, (A) the notional amount of such Swap Contract, when taken together with the aggregate notional amount of all other then outstanding Swap Contracts entered into in reliance on this clause (b), does not exceed the then aggregate principal balance of Qualified Debt, (B) no Event of Default has occurred and is continuing or would result therefrom, (C) Availability equals or exceeds zero (\$0) and (D) the Loan Parties are in compliance, on a pro forma basis, with the provisions of Section 7.11;

(c) after the occurrence of the Investment Grade Release, Unsecured Debt and Secured Debt that constitutes Secured Pari Passu Obligations; provided that at the time of the incurrence of such Unsecured Debt or Secured Debt, as the case may be, and immediately after giving effect thereto (i) no Event of Default has occurred and is continuing or would result therefrom, (ii) Availability equals or exceeds zero (\$0) and (iii) the Loan Parties are in compliance, on a pro forma basis, with the provisions of Section 7.11; and

(d) Secured Debt that does not constitute Secured Pari Passu Obligations; provided that at the time of the incurrence of such Secured Debt (including any Liens associated therewith) and immediately after giving effect thereto (i) no Event of Default has occurred and is continuing or would result therefrom and (ii) the Loan Parties are in compliance, on a pro forma basis, with the provisions of Section 7.11.

**7.04 Fundamental Changes.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Subsidiary may merge or consolidate with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person or (ii) any one or more other Subsidiaries, provided, that when any Grantor or Subsidiary Guarantor is merging with another Subsidiary, a Grantor or Subsidiary Guarantor, as applicable, shall be the continuing or surviving Person;

(b) any Subsidiary of the Borrower may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or another Subsidiary; provided that (i) if the transferor in such a transaction is a Grantor or Subsidiary Guarantor, then the transferee must be a Grantor or a Subsidiary Guarantor, as applicable, (ii) if the property subject to such Disposition includes any Borrowing Base Asset, then, upon consummation of such Disposition such property shall either continue to qualify as a Borrowing Base Asset or shall have been removed as a Borrowing Base Asset pursuant to a Release Transaction in accordance with the provisions of Section 2.18(c), and (iii) if the property subject to such Disposition includes any Collateral, then, upon consummation of such Disposition such property shall either continue to constitute Collateral or the Borrowing Base Asset constituting or related to such Collateral shall

111

have been removed as a Borrowing Base Asset pursuant to a Release Transaction in accordance with the provisions of Section 2.18(c);

(c) Dispositions that are permitted under Section 7.05, and Investments that are permitted under Section 7.02, shall be permitted under this Section 7.04; provided, that in the case of any Disposition made in connection with a merger or consolidation, such transaction must also be permitted pursuant to Section 7.04(a) or 7.04(d), as applicable; and

(d) Any Subsidiary may merge or consolidate with any Person that is not a Subsidiary in connection with an Investment permitted under Section 7.02 or a Disposition permitted under Section 7.05; provided that (i) in the case of a merger or consolidation involving the Borrower, the Borrower shall be the continuing or surviving Person and (ii) in the case of any merger or consolidation involving a Grantor or a Subsidiary Guarantor and not involving the Borrower, either (x) the continuing or surviving Person shall cease to be a Subsidiary or (y) the continuing or surviving Person must be a Grantor or a Subsidiary Guarantor, as applicable (or become a Grantor or a Subsidiary Guarantor, as applicable, upon the consummation thereof)

**7.05 Dispositions.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, make any Disposition or, in the case of any Subsidiary, issue, sell or otherwise Dispose of any of such Subsidiary’s Equity Interests to any Person, except that, so long as no Default exists or would result therefrom:

(a) Dispositions permitted by Section 7.03 and 7.04 and, notwithstanding anything in this Section 7.05 to the contrary, Dispositions permitted by Section 7.06;

(b) Dispositions among the Borrower and its Subsidiaries; provided that (i) if the transferor is a Grantor or a Subsidiary Guarantor, then the transferee must be a Grantor or a Subsidiary Guarantor, as applicable, (ii) if the property subject to such Disposition includes any Borrowing Base Asset, then, upon consummation of such Disposition such property shall either continue to qualify as a Borrowing Base Asset or shall have been removed as a Borrowing Base Asset pursuant to a Release Transaction in accordance with the provisions of Section 2.18(c) and (iii) if the property subject to such Disposition includes any Collateral, then, upon consummation of such Disposition such property shall either continue to constitute Collateral or the Borrowing Base Asset constituting or related to such Collateral shall have been removed as a Borrowing Base Asset pursuant to a Release Transaction in accordance with the provisions of Section 2.18(c);

(c) the issuance, sale or other Disposition of limited partnership interests of the Operating Partnership, but solely to the extent that, after giving effect thereto, a Change of Control has not occurred;

(d) the Disposition of any property (including Equity Interests in Subsidiaries) that does not constitute a Borrowing Base Asset or Collateral, so long as the Loan Parties are in compliance with the provisions of Section 7.11 on a pro forma basis immediately after giving effect to the consummation of such Disposition; and

112

---

(e) the Disposition of any property constituting a Borrowing Base Asset or Collateral so long as contemporaneously with the consummation of such Disposition such property is released pursuant to Section 2.18(c).

**7.06 Restricted Payments.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so; provided, that:

(a) each Subsidiary of the Borrower (other than the Operating Partnership) may declare and make Restricted Payments ratably to the holders of such Subsidiary's Equity Interests according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) with respect to the fiscal year of the Borrower ending December 31, 2017, the Borrower and the Operating Partnership may declare and make, directly or indirectly,

(i) any Restricted Payment so long as no Event of Default shall have occurred and be continuing or would result therefrom; and

(ii) if an Event of Default has occurred and is continuing or would result therefrom, Restricted Payments in an aggregate amount equal to the amount required to be paid by the Borrower to its equity holders in order for the Borrower to (x) maintain its qualification as a REIT and (y) avoid the payment of federal or state income or excise tax; provided, however, no Restricted Payments shall be permitted under this clause (b) (ii) following an acceleration of the Obligations pursuant to Section 8.02 or during the continuance of an Event of Default under Section 8.01(a), (f) or (g);

(c) with respect to the fiscal year of the Borrower ending December 31, 2018 and each fiscal year of the Borrower thereafter, (i) neither the Borrower nor the Operating Partnership may declare and make, directly or indirectly, Restricted Payments in an aggregate amount equal to the greater of (i) 110% of "Adjusted Funds From Operations" (calculated on a basis consistent with the Form S-11) for such fiscal year and (ii) the amount of Restricted Payments required to be paid by the Borrower to its equity holders in order for the Borrower to (x) maintain its qualification as a REIT and (y) avoid the payment of federal or state income or excise tax; provided, however, no Restricted Payments shall be permitted under this clause (c) following an acceleration of the Obligations pursuant to Section 8.02 or during the continuance of an Event of Default under Section 8.01(a), (f) or (g);

(d) so long as no Default shall have occurred and be continuing or would result therefrom, the Borrower may purchase, redeem, retire, acquire, cancel or terminate its Equity Interests so long as after giving effect thereto the Loan Parties are in compliance with the provisions of Section 7.11 on a pro forma basis immediately after giving effect to the making of such Restricted Payment; and

(e) any Consolidated Party may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests in such Person.

113

---

**7.07 Change in Nature of Business.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, engage in any material line of business other than those lines of business described in the Form S-11 and any business substantially related, incidental, ancillary or complimentary thereto.

**7.08 Transactions with Affiliates.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by such Person at the time in a comparable arm's length transaction with a Person other than an Affiliate of the Borrower; provided that the foregoing restriction shall not apply to (a) Investments and Restricted Payments expressly permitted hereunder, (b) payment of customary fees, indemnities and reasonable out of pocket expenses to directors, officers, managers and employees in the ordinary course of business, (c) employment and severance arrangements in the ordinary course of business, (d) transactions by and among the Loan Parties or (e) transactions and payments pursuant to the Management Agreement.

**7.09 Burdensome Agreements.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, enter into any Contractual Obligation (other than this Agreement or any other Loan Document and Permitted Pari Passu Provisions) that limits the ability of (a) any Subsidiary to make Restricted Payments to the Borrower or a Loan Party, (b) any Subsidiary to Guarantee the Obligations, (c) the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on any Borrowing Base Assets or any Collateral or (d) the Borrower or any Subsidiary to otherwise transfer (including by way of a pledge) property to the Borrower or a Loan Party, provided, that (i) clauses (a) and (d) above shall not prohibit any Negative Pledge incurred or provided in favor of any holder of Secured Debt or the lessor of a Capital Lease, in each case, with respect to any Real Property Asset or other asset that is neither

Collateral nor a Borrowing Base Asset solely to the extent any such Negative Pledge relates to the Real Property Asset or other asset financed by or the subject of such Secured Debt or Capital Lease, as applicable, or securing such Indebtedness, (ii) clause (d) above shall not prohibit any agreement that conditions a Person's ability to encumber its assets upon the maintenance of one or more specified ratios that limit such Person's ability to encumber its assets but that do not generally prohibit the encumbrance of its assets or the encumbrance of specific assets so long as such conditions are no more restrictive than the conditions in this Agreement, (iii) clause (d) above shall not prohibit any Negative Pledge contained in any agreement in connection with a Disposition not prohibited by this Agreement (provided that such limitation shall only be effective against the assets or property that are the subject of Disposition), (iv) clauses (a) and (d) above shall not apply to customary limitations on Restricted Payments contained in the constituent documents of, or joint venture agreements or other similar agreements entered into in the ordinary course of business that are applicable solely to Subsidiaries that are not Wholly-Owned Subsidiaries, and (v) clauses (a) and (d) above shall not apply to any encumbrance or restriction consisting of customary non-assignment provisions in agreements entered into in the ordinary course, other than any agreement affecting, relating to, or entered into in connection with, any Borrowing Base Asset or any Collateral.

**7.10 Use of Proceeds.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, use the proceeds of any Credit Extension, whether directly or indirectly,

114

---

and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

**7.11 Financial Covenants.** The Borrower shall not, nor shall it permit any Subsidiary to:

(a) **Total Leverage Ratio.** Permit the Total Leverage Ratio to be greater than 70% as of any date. Notwithstanding the foregoing, the Loan Parties shall be permitted to increase the maximum Total Leverage Ratio to 75% for any period not to exceed 180 consecutive days; provided that in no event may such ratio exceed 70% for more than 180 consecutive days in any 360 consecutive day period.

(b) **Fixed Charge Coverage Ratio.** Permit the ratio of Consolidated EBITDA to Fixed Charges to be less than 1.45:1.00 as of the last day of any fiscal quarter of the Borrower for the period of four fiscal quarters ended on such date (calculated as of the last day of each of the first four fiscal quarters ending after the Closing Date on an annualized basis reasonably acceptable to the Administrative Agent for the four quarter period then ended).

(c) **Consolidated Tangible Net Worth.** Permit Consolidated Tangible Net Worth on any date to be less than the sum of (i) \$269,994,750, and (ii) an amount equal to 75% of the Net Proceeds of all Equity Issuances effected by the Borrower after the date of the most recent financial statements of the Borrower that are available as of the Closing Date, excluding any such Net Proceeds that are applied to purchase, redeem or otherwise acquire Equity Interests issued by the Borrower within 90 days of receipt of such Net Proceeds.

(d) **Secured Leverage Ratio.** Permit the Secured Leverage Ratio to be greater than 70% as of any date. Notwithstanding the foregoing, the Loan Parties shall be permitted to increase the maximum Secured Leverage Ratio to 75% for any period not to exceed 180 consecutive days; provided that in no event may such ratio exceed 70% for more than 180 consecutive days in any 360 consecutive day period.

(e) **Maximum Secured Recourse Debt.** Permit Total Secured Debt that is Recourse Debt to exceed 5% of Total Asset Value as of any date.

**7.12 Sanctions.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, use the proceeds of any Credit Extension, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to knowingly fund any activities of or business with any individual or entity, or in any Sanctioned Country, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer or otherwise) of Sanctions.

115

---

**7.13 Anti-Corruption Laws; Anti-Money Laundering.**

(a) The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, use the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions.

(b) The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, knowingly engage in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of prohibited offenses designated in any applicable law, regulation or other binding measure by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering or violate these laws or any other applicable anti-money laundering law or engage in these actions.

**7.14 Amendments, Waivers and Terminations of Certain Agreements.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, amend, modify, supplement or otherwise change, cancel, terminate or waive in any respect:

(a) the terms of any of its Organization Documents without, in each case, the express prior written consent or approval of the Administrative Agent, if such changes (i) would materially impair the rights or interests of the Administrative Agent or any Lender in any Collateral or (ii) would adversely affect in any material respect any other rights or interests of the Administrative Agent, any of the L/C Issuers or any of the Lenders hereunder or under any of the other Loan Documents; or

(b) the terms or provisions of any agreement constituting or related to any Eligible Loan Asset or Eligible Ground Net Lease Asset that is included in the calculation of the Borrowing Base Amount, other than amendments and modifications that could not reasonably be expected to have a material adverse effect on the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party and are not adverse in any material respect to the Administrative Agent or the Lenders.

**7.15 Accounting Changes; Fiscal Year.** The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, make any change in its (a) accounting policies or reporting practices except as required or permitted by GAAP or (b) fiscal year.

## ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES

**8.01 Events of Default.** Any of the following shall constitute an Event of Default:

- (a) **Non-Payment.** The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) within five (5) Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or
- (b) **Specific Covenants.** (i) The Borrower fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02, 6.03, 6.05, 6.07, 6.10, 6.11, 6.12,
- 
- 6.13, 6.14, 6.15, 6.16 or Section 10.21 or Article VII, (ii) any Guarantor fails to perform or observe any term, covenant or agreement contained in the Guaranty or (iii) any Grantor fails to perform or observe any term, covenant or agreement contained in any Collateral Document to which it is a party; or
- (c) **Other Defaults.** Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days (or if such default is of such a nature that it cannot with reasonable effort be completely remedied within said period of thirty (30) days, such additional period of time as may be reasonably necessary to cure same, not to exceed sixty (60) days); or
- (d) **Representations and Warranties.** Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made or any representation or warranty that is already by its terms qualified as to “materiality”, “Material Adverse Effect” or similar language shall be incorrect or misleading in any respect after giving effect to such qualification when made or deemed made; or
- (e) **Cross-Default.** (i) The Borrower or any Significant Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues beyond the applicable grace period, if any, in respect of any Recourse Indebtedness or Guarantee of Recourse Indebtedness (other than Indebtedness arising under the Loan Documents and Indebtedness under Swap Contracts), having an aggregate principal amount, individually or in the aggregate with all other Recourse Indebtedness as to which such a failure exists, of more than \$50,000,000, or (B) fails to observe or perform any other agreement or condition relating to such Recourse Indebtedness or Guarantee of Recourse Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; provided that this clause (B) shall not apply to any Indebtedness that becomes due as a result of customary non-default mandatory prepayments resulting from asset sales, casualty or condemnation events, the incurrence of Indebtedness or issuances of Equity Interests; (ii) the Borrower or any Significant Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues beyond the applicable grace period, if any, in respect of any Non-Recourse Indebtedness or Guarantee of Non-Recourse Indebtedness (other than Indebtedness arising under the Loan Documents and Indebtedness under Swap Contracts), having an aggregate principal amount, individually or in the aggregate with all other Non-Recourse Indebtedness as to which such a failure exists, of more than \$125,000,000, or (B) fails to observe or perform any other agreement or condition relating to such Non-Recourse

---

Indebtedness or Guarantee of Non-Recourse Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; provided that this clause (B) shall not apply to any Indebtedness that becomes due as a result of customary non-default mandatory prepayments resulting from asset sales, casualty or condemnation events, the incurrence of Indebtedness or issuances of Equity Interests; or (iii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any Significant Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Borrower or any Significant Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Borrower or such Significant Subsidiary as a result thereof is greater than \$50,000,000; or

(f) **Insolvency Proceedings, Etc.** Any Loan Party or any Significant Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or



(g) Inability to Pay Debts; Attachment. (i) The Borrower or any Significant Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 60 days after its issue or levy; or

(h) Judgments. There is entered against the Borrower or any Significant Subsidiary (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding \$50,000,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 90 consecutive days during which such judgment is not discharged or dismissed or a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

118

(i) ERISA.

(i) A Termination Event occurs which the Required Banks reasonably determine will have a Material Adverse Effect; or

(ii) any assets of the Borrower shall constitute "assets" (within the meaning of ERISA or Section 4975 of the Code, including but not limited to 29 C.F.R. § 2510.3-101 or any successor regulation thereto) of an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Code; or

(j) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Consolidated Party contests in any manner the validity or enforceability of any material provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any material provision of any Loan Document; or

(k) Collateral Documents. Any Collateral Document after delivery thereof shall for any reason cease to create a valid and perfected first priority Lien (subject to Permitted Property Encumbrances or Permitted Equity Encumbrances, as applicable) on the Collateral purported to be covered thereby; or

(l) Change of Control. There occurs any Change of Control.

**8.02 Remedies Upon Event of Default.** If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuers all rights and remedies available to it, the Lenders and the L/C Issuers under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and the obligation of each L/C Issuer to make L/C Credit Extensions

119

shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent, any L/C Issuer or any Lender.

**8.03 Application of Funds.** After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.16 and 2.17, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuers and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuers, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrower pursuant to Sections 2.03 and 2.16; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.16, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

120

---

## ARTICLE IX. ADMINISTRATIVE AGENT

**9.01 Appointment and Authority.** Each of the Lenders and L/C Issuers hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders and the L/C Issuers hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and such L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.04(c)), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

**9.02 Rights as a Lender.** The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

**9.03 Exculpatory Provisions.** The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

121

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity;

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders or the Super Majority Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower, a Lender or an L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan

Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

**9.04 Reliance by Administrative Agent.** The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In

122

---

determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

**9.05 Delegation of Duties.** The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub agents appointed by the Administrative Agent. The Administrative Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub agent and to the Related Parties of the Administrative Agent and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

**9.06 Resignation of Administrative Agent.**

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the approval (not to be unreasonably withheld, delayed or conditioned) of the Borrower (unless an Event of Default has occurred and is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above, provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, with the consent of the Borrower so long as no Event of Default has occurred and is continuing (such consent not to be unreasonably withheld, delayed or conditioned, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days (or such

123

---

earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by the Administrative Agent on behalf of the Lenders or the L/C Issuers under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such Collateral until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each L/C Issuer directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring or removed Administrative Agent was acting as Administrative Agent and (ii) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any Collateral on behalf of any of the Secured Parties and (b) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

(d) Any resignation by, or removal of, Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as an L/C Issuer. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect

to all Letters of Credit issued by it and outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). Upon the appointment by the Borrower of a successor L/C Issuer hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer, (b) the retiring L/C Issuer shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the

Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

**9.07 Non-Reliance on Administrative Agent and Other Lenders.** Each Lender and each L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

**9.08 No Other Duties, Etc.** Anything herein to the contrary notwithstanding, none of the Bookrunner, any Arranger or any Syndication Agent shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

**9.09 Administrative Agent May File Proofs of Claim; Credit Bidding.** In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuers and the Administrative Agent under Sections 2.03(i) and (j), 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

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

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (h) of Section 10.01 of this Agreement, (iii) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (iv) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than contingent indemnification and reimbursement obligations) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable L/C Issuer shall have been made), (ii) that is sold or otherwise disposed of, or to be sold or otherwise disposed of, as part of or in connection with any sale or other disposition permitted hereunder or under any other Loan Document, (iii) upon consummation of a Release Transaction relating to such property in accordance with Section 2.18(c), (iv) upon the occurrence of the Investment Grade Release or (v) subject to Section 10.01, if approved, authorized or ratified in writing by the Required Lenders; and

(b) to release any Subsidiary Guarantor from its obligations under the Guaranty if such Person is not required to be a Subsidiary Guarantor pursuant to the terms hereof.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release its interest in particular types or items of property, or to release any Subsidiary Guarantor from its obligations under the Guaranty pursuant to this Section 9.10.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

**9.11 ERISA.** Each Lender that is a Lender on the Closing Date represents and warrants to the Administrative Agent and its Affiliates, and not, for the avoidance of doubt, for the benefit of either Borrower or any other Credit Party, that as of the Closing Date such Lender is not and will not be (1) an employee benefit plan subject to Title I of ERISA, (2) a plan or account subject to Section 4975 of the Code; (3) an entity deemed to hold "plan assets" of any such plans or accounts for purposes of ERISA or the Code; or (4) a "governmental plan" within the meaning of ERISA.

#### ARTICLE X. MISCELLANEOUS

**10.01 Amendments, Etc.** No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective

only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) waive any condition set forth in Section 4.01(a), without the written consent of each Lender;

(b) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;

(c) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;

(d) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate;

(e) change Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly and adversely affected;

(f) change any provision of this Section or the definitions of "Required Lenders" or "Super Majority Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender;

(g) release (i) all or substantially all of the value of the Guaranty (excluding, for the avoidance of doubt, a release of applicable Subsidiary Guarantors made pursuant to the Investment Grade Release) or (ii) the Operating Partnership or SIGOP from the Guaranty, in each case, without the written consent of each Lender; or

(h) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by an L/C Issuer in addition to the Lenders required above, affect the rights or duties of such L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or

duties of the Administrative Agent under this Agreement or any other Loan Document; and (iii) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

Notwithstanding anything to the contrary herein,

128

(i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender;

(ii) the Administrative Agent and the Borrower may, with the consent of the other (but without the consent of any Lender or other Loan Party), amend, modify or supplement this Agreement and any other Loan Document:

(A) to cure any ambiguity, omission, typographical error, mistake, defect or inconsistency if such amendment, modification or supplement does not adversely affect the rights of the Administrative Agent or any Lender, or

(B) to add a "Subsidiary Guarantor" in accordance with the applicable provisions of this Agreement and the other Loan Documents.

Notwithstanding any provision herein to the contrary, this Agreement may be amended with the written consent of the Lenders participating in any Incremental Revolving Increase or Incremental Term Loan Facility, the Administrative Agent and the Borrower (i) to add one or more additional revolving credit or term loan facilities to this Agreement, in each case subject to the limitations in Section 2.15, and to permit the extensions of credit and all related obligations and liabilities arising in connection therewith from time to time outstanding to share ratably (or on a basis subordinated to the existing facilities hereunder) in the benefits of this Agreement and the other Loan Documents with the obligations and liabilities from time to time outstanding in respect of the existing facilities hereunder, and (ii) in connection with the foregoing, to permit, as deemed appropriate by the Administrative Agent and approved by the Lenders providing such additional credit facilities to participate in any required vote or action required to be approved by the Required Lenders or by any other number, percentage or class of Lenders hereunder.

#### **10.02 Notices; Effectiveness; Electronic Communication.**

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower or any other Loan Party, the Administrative Agent or any L/C Issuer, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

129

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail, FpML (financial products Markup Language) messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, any L/C Issuer or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM,

THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s, any Loan Party’s or the Administrative Agent’s transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the bad faith, willful misconduct or gross negligence of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Loan Party, any Lender, any L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrower, the Administrative Agent and each of the L/C Issuers may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and the L/C Issuers. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuers and Lenders. The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic notices, Committed Loan Notices, and Letter of Credit Applications) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify, jointly and severally, the Administrative Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower, except to the extent that such losses, costs, expenses or liabilities are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the bad faith, willful misconduct or gross negligence of such Person. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

**10.03 No Waiver; Cumulative Remedies; Enforcement.** No failure by any Lender, any L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuers; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as an L/C Issuer) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

**10.04 Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. Without limiting any other Loan Document, the Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable and documented out-of-pocket fees, charges and disbursements of one counsel, taken as a whole, and, if applicable, one local counsel in each material jurisdiction, for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by any L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all documented out-of-pocket expenses incurred by the Administrative Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of one counsel for the Administrative Agent, the Lenders and the L/C Issuers, taken as a whole, and, if applicable, one local counsel in each material jurisdiction), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its

rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit and including, in each case under clauses (i) through (iii) above, as applicable, (1) appraisal and re-appraisal costs, to the extent required to be paid by the Borrower, and survey costs; (2) title insurance charges and premiums; (3) title search or examination costs, including abstracts, abstractors' certificates and uniform commercial code searches; (4) judgment and tax lien searches; (5) escrow fees; (6) fees and costs of environmental investigations, site assessments and remediations; (7) recordation taxes, documentary taxes, transfer taxes and mortgage taxes; (8) filing and recording fees; (9) loan brokerage fees; (10) actual and reasonable fees and costs in connection with the addition or release of any Real Property Asset as a Borrowing Base Asset; and (11) actual and reasonable fees and costs in connection with any Mortgage with respect to such Borrowing Base Asset.

(b) **Indemnification by the Borrower.** The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable and documented fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any Environmental Affiliate, any violation by the Borrower or an Environmental Affiliate of any applicable Environmental Law, the breach of any environmental representation or warranty set forth herein or any Environmental Claim related in any way to the Borrower or any Environmental Affiliate, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, **IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE**; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (i) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the material breach, bad faith, gross negligence or willful misconduct of such Indemnitee, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (ii) result from a dispute solely among Indemnitees and not involving any act or omission of the Borrower or any of its Affiliates

133

(other than, with respect to the Administrative Agent, any of the Arrangers or any other agent or arranger under this Agreement, any dispute involving such Person in its capacity or in fulfilling its role as such). Without limiting the provisions of Section 3.01(c), this Section 10.4(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) **Reimbursement by Lenders.** To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), any L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), any L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or such L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) **Waiver of Consequential Damages, Etc.** To the fullest extent permitted by applicable law, none of the Borrower, the Arrangers, the Lenders or the Administrative Agent shall assert, and each hereby waives, and acknowledges that no other Person shall have, any claim against any of the Borrower, the Arrangers, the Lenders or the Administrative Agent, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the bad faith, willful misconduct or gross negligence of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

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

(f) **Survival.** The agreements in this Section and the indemnity provisions of Section 10.02(e) shall survive the resignation of the Administrative Agent and any L/C Issuer, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

134

**10.05 Payments Set Aside.** To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any



part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

#### 10.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it or contemporaneous assignments to related Approved Funds (determined after giving effect to such Assignments) that equal at least the amount specified in

135

---

paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to 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, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld, delayed or conditioned).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned;

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

(A) the consent of the Borrower (such consent not to be unreasonably withheld, delayed or conditioned) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that 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 ten (10) 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 if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(C) the consent of each L/C Issuer shall be required for any assignment.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) to any

136

---

Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person).

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, any L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable 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 subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and

137

---

addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. Upon the written request of the Borrower, the Administrative Agent shall provide copies of the Register to the Borrower, and 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, the Administrative Agent or any L/C Issuer, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 10.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-

138

---

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

(e) **Certain Pledges.** Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) **Resignation as L/C Issuer after Assignment.** Notwithstanding anything to the contrary contained herein, if at any time a Lender that is an L/C Issuer assigns all of its Commitment and Loans pursuant to subsection (b) above, such Lender may, upon 30 days' notice to the Borrower and the Lenders, resign as an L/C Issuer. In the event of any such resignation as an L/C Issuer, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of such Lender as an L/C Issuer. If any Lender resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by it and outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). Upon the appointment of a successor L/C Issuer, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the resigning L/C Issuer and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, issued by the resigning L/C Issuer and outstanding at the time of such succession or make other arrangements satisfactory to the resigning L/C Issuer to effectively assume the obligations of the resigning L/C Issuer with respect to such Letters of Credit.

**10.07 Treatment of Certain Information; Confidentiality.** Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, its auditors and its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority

139

---

purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.15(c) or Section 10.01 or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.

For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary, provided that, in the case of information received from the Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuers acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

**10.08 Right of Setoff.** If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other

140

---

obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party (in each case, other than the accounts pledged to secure the CMBS Financing pursuant to the documents related thereto and any other account held for the benefit of another Person) against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such L/C

Issuer or their respective Affiliates may have. Each Lender and each L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

**10.09 Interest Rate Limitation.** Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

**10.10 Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or the L/C Issuers, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery

141

---

of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Agreement.

**10.11 Survival of Representations and Warranties.** All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

**10.12 Severability.** If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent or any L/C Issuer, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

**10.13 Replacement of Lenders.** If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender or if any other circumstances exist hereunder that gives the Borrower the rights to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided, that:

(a) the Administrative Agent shall have received the assignment fee (if any) specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

142

---

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent, which vote shall count towards the approval of the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

**10.14 Governing Law; Jurisdiction; Etc.**

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN

(b) **SUBMISSION TO JURISDICTION.** THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, ANY L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER

143

PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) **WAIVER OF VENUE.** THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) **SERVICE OF PROCESS.** EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

**10.15 Waiver of Jury Trial.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**10.16 No Advisory or Fiduciary Responsibility.** In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, amendment and restatement, waiver or other modification hereof or of any other Loan Document), the Borrower and each other Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers, the Bookrunner and the Lenders are arm's-length commercial transactions between the Borrower, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent, the Arrangers, the Bookrunner and the

144

Lenders, on the other hand, (B) each of the Borrower and the other Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, the Arrangers, the Bookrunner and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, any Arranger, the Bookrunner nor any Lender has any obligation to the Borrower, any other Loan Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arrangers, the Bookrunner and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, the other Loan Parties and their respective Affiliates, and neither the Administrative Agent, any Arranger, the Bookrunner nor any Lender has any obligation to disclose any of such interests to the Borrower, any other Loan Party or any of their respective Affiliates. Each Loan Party agrees it will not claim that any of the Administrative Agent, any Arranger, the Bookrunner or any Lender has rendered advisory services of any nature or respect or owes a fiduciary or similar duty to such Loan Party, in connection with any transactions contemplated hereby.

**10.17 Electronic Execution of Assignments and Certain Other Documents.** The words "execute," "execution," "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments, amendments and restatements or other modifications, Committed Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by 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 or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary the

Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

**10.18 USA PATRIOT Act.** Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in

145

---

order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

**10.19 ENTIRE AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.**

**10.20 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Solely to the extent any Lender or any L/C Issuer that is an EEA Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or any L/C Issuer that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender or any L/C Issuer that is an EEA Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

**10.21 Appraisals.** (a) Whenever the Borrower is obligated to reimburse the cost of any Appraisal hereunder, the obligation to reimburse such cost shall be a part of the Obligations and shall be due and payable to the Administrative Agent not later than ten Business Days after written demand therefor.

(b) Promptly following a written request from the Borrower, so long as no Default has occurred and is continuing, the Administrative Agent shall deliver a copy of any Appraisal to the Borrower after its completion. The Administrative Agent and Lenders do not (a) represent that the presumptions or opinions in any Appraisal are relevant or accurate; (b) represent that any Appraisal has been or has not been approved by the Administrative Agent or any Lender; or (c) represent that the Administrative Agent or any Lender endorses or does not endorse the opinions set forth in any Appraisal. The Borrower agrees that any transmittal by the Administrative Agent of any Appraisal to the Borrower is given without representation or

146

---

warranty. The Borrower will hold any Appraisal delivered by the Administrative Agent to the Borrower in confidence and will not distribute it to any other person or entity, except the Borrower’s employees, agents, attorneys, consultants, or unless compelled by Law or judicial proceedings, without the Administrative Agent’s prior written consent. The Borrower waives any and all present and future claims, actions, causes of action, defenses and/or counterclaims which it may now or hereafter assert against the Administrative Agent or any Lender in connection with the content or accuracy of any such Appraisal, the Borrower’s use of any such Appraisal, and subsequent use of any such Appraisal by any third party to whom the Borrower provides the Appraisal.

## ARTICLE XI. MISCELLANEOUS

**11.01 Guaranty.** Each Guarantor hereby absolutely and unconditionally guarantees, jointly and severally, as a guaranty of payment and performance and not merely as a guaranty of collection, prompt payment when due, whether at stated maturity, by required prepayment, upon acceleration, demand or otherwise, and at all times thereafter, of any and all of the Obligations, whether for principal, interest, premiums, fees, indemnities, damages, costs, expenses or otherwise, of the Borrower to the Secured Parties, and whether arising hereunder or under any other Loan Document (including all renewals, extensions, amendments, refinancings and other modifications thereof and all costs, attorneys’ fees and expenses incurred by the Secured Parties in connection with the collection or enforcement thereof). The Administrative Agent’s books and records showing the amount of the Obligations shall be admissible in evidence in any action or proceeding, and shall be binding upon each Guarantor, and conclusive for the purpose of establishing the amount of the Obligations absent demonstrable error. This Guaranty shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or any instrument or agreement evidencing any Obligations, or by the existence, validity, enforceability, perfection, non-perfection or extent of any collateral therefor, or by any fact or circumstance relating to the Obligations which might otherwise constitute a defense to the obligations of any Guarantor under this Guaranty, and each Guarantor hereby irrevocably waives any defenses it may now have or hereafter acquire in any way relating to any or all of the foregoing.

Anything contained in this Guaranty to the contrary notwithstanding, it is the intention of each Guarantor and the Secured Parties that the obligations of each Guarantor hereunder at any time shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code of the United States (Title 11, United States Code) or any comparable provisions of any similar federal or state law. To that end, but only in the event and to the extent that after giving effect to Section 11.11, such Guarantor's obligations with respect to the Obligations or any payment made pursuant to such Obligations would, but for the operation of the first sentence of this paragraph, be subject to avoidance or recovery in any such proceeding under applicable Debtor Relief Laws after giving effect to Section 11.11, the amount of such Guarantor's obligations with respect to the Obligations shall be limited to the largest amount which, after giving effect thereto, would not, under applicable Debtor Relief Laws, render such Guarantor's obligations with respect to the Obligations unenforceable or avoidable or otherwise subject to recovery under applicable Debtor Relief Laws. To the extent any payment actually made pursuant to the Obligations exceeds the limitation of the first sentence of this paragraph and is otherwise subject to avoidance and recovery in any such proceeding under

147

---

applicable Debtor Relief Laws, the amount subject to avoidance shall in all events be limited to the amount by which such actual payment exceeds such limitation, and the Obligations as limited by the first sentence of this paragraph shall in all events remain in full force and effect and be fully enforceable against such Guarantor. The first sentence of this paragraph is intended solely to preserve the rights of the Secured Parties hereunder against such Guarantor in such proceeding to the maximum extent permitted by applicable Debtor Relief Laws and neither such Guarantor, the Borrower, any other Guarantor nor any other Person shall have any right or claim under such sentence that would not otherwise be available under applicable Debtor Relief Laws in such proceeding.

**11.02 Rights of Lenders.** Each Guarantor consents and agrees that the Secured Parties may, at any time and from time to time, without notice or demand, and without affecting the enforceability or continuing effectiveness hereof (in each case, to the extent permitted hereunder): (a) amend, amend and restate, extend, renew, compromise, discharge, accelerate or otherwise change the time for payment or the terms of the Obligations or any part thereof; (b) take, hold, exchange, enforce, waive, release, fail to perfect, sell, or otherwise dispose of any security for the payment of this Guaranty or any Obligations; (c) apply such security and direct the order or manner of sale thereof as the Administrative Agent and the Lenders in their sole discretion may determine; and (d) release or substitute one or more of any endorsers or other guarantors of any of the Obligations. Without limiting the generality of the foregoing, each Guarantor consents to the taking of, or failure to take, any action which might in any manner or to any extent vary the risks of such Guarantor under this Guaranty or which, but for this provision, might operate as a discharge of such Guarantor.

**11.03 Certain Waivers.** Each Guarantor waives to the fullest extent permitted by Law (a) any defense arising by reason of any disability or other defense of the Borrower or any other guarantor, or the cessation from any cause whatsoever (including any act or omission of any Secured Party, but excluding satisfaction thereof by way of payment) of the liability of the Borrower; (b) any defense based on any claim that such Guarantor's obligations exceed or are more burdensome than those of the Borrower; (c) the benefit of any statute of limitations affecting such Guarantor's liability hereunder; (d) any right to proceed against the Borrower, proceed against or exhaust any security for the Obligations, or pursue any other remedy in the power of any Secured Party whatsoever; (e) any benefit of and any right to participate in any security now or hereafter held by any Secured Party; and (f) to the fullest extent permitted by law, any and all other defenses or benefits that may be derived from or afforded by applicable law limiting the liability of or exonerating guarantors or sureties (in each case, other than a defense relating to indefeasible payment in full of the Obligations). Each Guarantor expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Obligations, and all notices of acceptance of this Guaranty or of the existence, creation or incurrence of new or additional Obligations.

**11.04 Obligations Independent.** The obligations of each Guarantor hereunder are those of a primary obligor, and not merely as surety, and are independent of the Obligations and the obligations of any other guarantor, and a separate action may be brought against each

148

---

Guarantor to enforce this Guaranty whether or not the Borrower or any other Person or entity is joined as a party.

**11.05 Subrogation.** Each Guarantor shall not exercise any right of subrogation, contribution, indemnity, reimbursement or similar rights with respect to any payments it makes under this Guaranty until all Commitments have been terminated and all of the Obligations and any amounts payable under this Guaranty (in each case, other than contingent indemnification and expense reimbursement obligations to the extent no claim has been asserted therefor) have been paid in full. If any amounts are paid to any Guarantor in violation of the foregoing limitation, then such amounts shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Secured Parties to reduce the amount of the Obligations, whether matured or unmatured.

**11.06 Termination; Reinstatement.** This Guaranty is a continuing and irrevocable guaranty of all Obligations now or hereafter existing and shall remain in full force and effect until all Commitments are terminated and all Obligations and any other amounts payable under this Guaranty (in each case, other than contingent indemnification and expense reimbursement obligations to the extent no claim has been asserted therefor) have been paid in full in cash. Notwithstanding the foregoing, this Guaranty shall continue in full force and effect or be revived, as the case may be, if any payment by or on behalf of the Borrower or any other Guarantor is made, or any of the Secured Parties exercises its right of setoff, in respect of the Obligations and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by any of the Secured Parties in their discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Laws or otherwise, all as if such payment had not been made or such setoff had not occurred and whether or not the Secured Parties are in possession of or have released this Guaranty and regardless of any prior revocation, rescission, termination or reduction. The obligations of the Guarantors under this paragraph shall survive termination of this Guaranty.

**11.07 Subordination.** Each Guarantor hereby subordinates the payment of all obligations and indebtedness of the Borrower owing to such Guarantor, whether now existing or hereafter arising, including but not limited to any obligation of the Borrower to such Guarantor as subrogee of the Secured Parties or resulting from such Guarantor's performance under this Guaranty, to the payment in full in cash of all Obligations. If the Secured Parties so request during the continuance of an Event of Default, any such obligation or indebtedness of the Borrower to such Guarantor shall be enforced and performance received by such Guarantor as trustee for the Secured Parties and the proceeds thereof shall be paid over to the Secured Parties on account of the Obligations, but without reducing or affecting in any manner the liability of any Guarantor under this Guaranty.

**11.08 Stay of Acceleration.** If acceleration of the time for payment of any of the Obligations is stayed, in connection with any case commenced by or against the Borrower or any Guarantor under any Debtor Relief Laws, or otherwise, all such amounts shall nonetheless be payable by a Guarantor not subject to such stay immediately upon demand by the Secured Parties.

149

**11.09 Condition of the Borrower.** Each Guarantor acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from the Borrower and any other guarantor such information concerning the financial condition, business and operations of the Borrower and any such other guarantor as such Guarantor requires, and that none of the Secured Parties has any duty, and such Guarantor is not relying on the Secured Parties at any time, to disclose to such Guarantor any information relating to the business, operations or financial condition of the Borrower or any other guarantor (each Guarantor waiving any duty on the part of the Secured Parties to disclose such information and any defense relating to the failure to provide the same).

**11.10 Limitations on Enforcement.** If, in any action to enforce this Guaranty or any proceeding to allow or adjudicate a claim under this Guaranty, a court of competent jurisdiction determines that enforcement of this Guaranty against any Guarantor for the full amount of the Obligations is not lawful under, or would be subject to avoidance under, Section 548 of the Bankruptcy Code or any applicable provision of comparable state law, the liability of such Guarantor under this Guaranty shall be limited to the maximum amount lawful and not subject to avoidance under such law.

**11.11 Contribution.** At any time a payment in respect of the Obligations is made under this Guaranty, the right of contribution of each Guarantor against each other Guarantor shall be determined as provided in the immediately following sentence, with the right of contribution of each Guarantor to be revised and restated as of each date on which a payment (a “Relevant Payment”) is made on the Obligations under this Guaranty. At any time that a Relevant Payment is made by a Guarantor that results in the aggregate payments made by such Guarantor in respect of the Obligations to and including the date of the Relevant Payment exceeding such Guarantor’s Contribution Percentage (as defined below) of the aggregate payments made by all Guarantors in respect of the Obligations to and including the date of the Relevant Payment (such excess, the “Aggregate Excess Amount”), each such Guarantor shall have a right of contribution against each other Guarantor who either has not made any payments or has made payments in respect of the Obligations to and including the date of the Relevant Payment in an aggregate amount less than such other Guarantor’s Contribution Percentage of the aggregate payments made to and including the date of the Relevant Payment by all Guarantors in respect of the Obligations (the aggregate amount of such deficit, the “Aggregate Deficit Amount”) in an amount equal to (x) a fraction the numerator of which is the Aggregate Excess Amount of such Guarantor and the denominator of which is the Aggregate Excess Amount of all Guarantors multiplied by (y) the Aggregate Deficit Amount of such other Guarantor. A Guarantor’s right of contribution pursuant to the preceding sentences shall arise at the time of each computation, subject to adjustment at the time of each computation; provided, that no Guarantor may take any action to enforce such right until all of the Obligations and any amounts payable under this Guaranty (other than, in each case, contingent indemnification and expense reimbursement obligations to the extent no claim has been asserted therefor) have been paid in full in cash and all Commitments are terminated, it being expressly recognized and agreed by all parties hereto that any Guarantor’s right of contribution arising pursuant to this Section 11.11 against any other Guarantor shall be expressly junior and subordinate to such other Guarantor’s obligations and liabilities in respect of the Obligations and any other obligations owing under this Guaranty. As used in this Section 11.11, (i) each Guarantor’s “Contribution Percentage” shall mean the percentage obtained by dividing (x) the Adjusted Net Worth (as defined below) of such

150

Guarantor by (y) the aggregate Adjusted Net Worth of all Guarantors; (ii) the “Adjusted Net Worth” of each Guarantor shall mean the greater of (x) the Net Worth (as defined below) of such Guarantor and (y) zero; and (iii) the “Net Worth” of each Guarantor shall mean the amount by which the fair saleable value of such Guarantor’s assets on the date of any Relevant Payment exceeds its existing debts and other liabilities (including contingent liabilities, but without giving effect to any Obligations arising under this Guaranty) on such date. All parties hereto recognize and agree that, except for any right of contribution arising pursuant to this Section 11.11, each Guarantor who makes any payment in respect of the Obligations shall have no right of contribution or subrogation against any other Guarantor in respect of such payment until all of the Obligations (other than, in each case, contingent indemnification and expense reimbursement obligations to the extent no claim has been asserted therefor) have been paid in full in cash and all Commitments are terminated. Each of the Guarantors recognizes and acknowledges that the rights to contribution arising hereunder shall constitute an asset in favor of the party entitled to such contribution. In this connection, each Guarantor has the right to waive its contribution right against any Guarantor to the extent that after giving effect to such waiver such Guarantor would remain solvent, in the determination of the Majority Lenders.

**11.12 Investment Grade Release.**

(a) If at any time the Investment Grade Ratings Criteria is satisfied, subject to paragraph (c) of this Section, the Administrative Agent shall promptly release all of the Subsidiary Guarantors from their obligations under the Guaranty (the “Investment Grade Release”) and release all Equity Interests and other Collateral pledged pursuant to the Pledge Agreement or any other Collateral Documents, subject to satisfaction of the following conditions:

(i) The Borrower shall have delivered to the Administrative Agent, on or prior to the date that is ten (10) Business Days (or such shorter period of time as agreed to by the Administrative Agent) before the date on which the Investment Grade Release is to be effected, written notice that it is requesting the Investment Grade Release, which notice shall identify the Subsidiary Guarantors to be released and the proposed effective date for the Investment Grade Release; and

(ii) On the date the Investment Grade Release is to become effective, the Administrative Agent shall have received a certificate signed by a Responsible Officer, certifying that,

(A) the Investment Grade Ratings Criteria have been satisfied and setting forth the Debt Rating(s) as in effect, if any, from each of S&P, Moody’s and Fitch as of such date, and

(B) certifying that no Subsidiary Guarantor requested to be released is a borrower or guarantor of, or otherwise obligated in respect of, any Unsecured Debt or any Secured Pari Passu Obligations (other than Unsecured Debt and Secured Pari Passu Obligations in respect of which such Subsidiary Guarantor shall be released as a borrower or guarantor or other obligor substantially concurrently with the release hereunder) or is the Grantor party to a Mortgage in

151



favor of the Administrative Agent granted in connection with the occurrence of a Springing Mortgage Covenant Event; and

(C) immediately before and immediately after giving effect to the Investment Grade Release, no Default has occurred and is continuing or would result therefrom.

(b) Subject to paragraph (c) of this Section, upon the release of any Person pursuant to this Section 11.12, the Administrative Agent shall (to the extent applicable) return any Collateral in its possession and deliver to the Borrower, upon the Borrower's request and at the Borrower's expense, such documentation as is reasonably satisfactory to the Borrower and the Administrative Agent and necessary to evidence the release of such Person from its obligations under the Loan Documents and (to the extent applicable) the discharge, release and termination of the security interests created by the Pledge Agreement and the other Collateral Documents.

(c) The provisions of this Section 11.12 shall not apply to (i) any Direct Owner of a Borrowing Base Asset or any Indirect Owner of such Direct Owner in each case that is a borrower or guarantor of, or otherwise obligated in respect of, any Unsecured Debt or Secured Pari Passu Obligations (other than any Unsecured Debt or Secured Pari Passu Obligations in respect of which such Subsidiary Guarantor shall be released as a borrower or guarantor or other obligor substantially concurrently with the Investment Grade Release), (ii) any Grantor party to a Mortgage in favor of the Administrative Agent granted in connection with the occurrence of a Springing Mortgage Covenant Event. For the avoidance of doubt, the Administrative Agent shall not release its Lien on any Collateral that was granted in connection with a Springing Mortgage Covenant Event by virtue of the occurrence of the Investment Grade Release.

[signature pages immediately follow]

152

---

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

**SAFETY, INCOME AND GROWTH, INC.**

By: /s/ Nina B. Matis  
Name: Nina B. Matis  
Title: Chief Investment Officer & Chief Legal Officer

**SAFETY INCOME AND GROWTH OPERATING PARTNERSHIP LP**

By: /s/ Nina B. Matis  
Name: Nina B. Matis  
Title: Chief Investment Officer & Chief Legal Officer

**SIGOP GEN PAR LLC**

By: /s/ Nina B. Matis  
Name: Nina B. Matis  
Title: Chief Investment Officer & Chief Legal Officer

[Signature Page to SFTY Credit Agreement]

---

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

By: /s/ René Marion  
Name: René Marion  
Title: Assistant Vice President

[Signature Page to SFTY Credit Agreement]

---

**BANK OF AMERICA, N.A., as a Lender and an L/C Issuer**

By: /s/ Michael J. Kauffman  
Name: Michael J. Kauffman  
Title: Vice President

[Signature Page to SFTY Credit Agreement]

---

**JPMORGAN CHASE BANK, N.A.**, as a Lender and an L/C Issuer

By: /s/ Chiara Carter  
Name: Chiara Carter  
Title: Executive Director

[Signature Page to SFTY Credit Agreement]

---

**BARCLAYS BANK PLC, N.A.**, as a Lender and an L/C Issuer

By: /s/ May Huang  
Name: May Huang  
Title: Assistant Vice President

[Signature Page to SFTY Credit Agreement]

---

**CITIBANK, N.A.**, as a Lender

By: /s/ John C. Rowland  
Name: John C. Rowland  
Title: Vice President

[Signature Page to SFTY Credit Agreement]

---

**RAYMOND JAMES BANK, N.A.**, as a Lender

By: /s/ Matt Stein  
Name: Matt Stein  
Title: Vice President

[Signature Page to SFTY Credit Agreement]

---