

**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: December 17, 2021  
(Date of earliest event reported)**

**SUN COMMUNITIES INC.**  
(Exact name of registrant as specified in its charter)

**Maryland**  
(State of Incorporation)

**1-12616**  
Commission file number

**38-2730780**  
(I.R.S. Employer Identification No.)

**27777 Franklin Rd. Suite 200, Southfield, Michigan**  
(Address of Principal Executive Offices)

**48034**  
(Zip Code)

**(248) 208-2500**  
(Registrant's telephone number, including area code)

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

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

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

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

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

- Emerging growth company

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

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

On December 17, 2021, Sun Communities, Inc. (the “Company”) and Sun Communities Operating Limited Partnership (the “Operating Partnership”) entered into an At the Market Offering Sales Agreement (the “Sales Agreement”) with BMO Capital Markets Corp., BofA Securities, Inc., Citigroup Global Markets Inc., J.P. Morgan Securities LLC, RBC Capital Markets, LLC, Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez & Company, Inc. and Robert W. Baird & Co. Incorporated, as sales agent, principal and/or (except in the case of Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez & Company, Inc. and Robert W. Baird & Co. Incorporated) forward seller (in such capacity, each a “Sales Agent” and collectively, the “Sales Agents”), and each of the Forward Purchasers (as defined below), pursuant to which the Company may sell, from time to time, up to an aggregate gross sales price of \$1,250,000,000 of its common stock, \$0.01 par value per share (the “Common Stock”), through the Sales Agents, acting as the Company’s sales agents or, if applicable, as Forward Sellers (as defined below), or directly to the Sales Agents as principals for their own accounts.

Upon entering into the sales agreement, the Company simultaneously terminated the At the Market Offering Sales Agreement, dated June 4, 2021, among the Company, certain of the Sales Agents and certain other parties, which the Company entered into in connection with a prior “at the market” offering program.

The Common Stock sold in the offering will be issued pursuant to a prospectus supplement filed with the Securities and Exchange Commission (the “SEC”) on December 17, 2021 and the accompanying base prospectus dated April 2, 2021 forming part of the Company’s shelf registration statement on Form S-3 (Registration No. 333-255020) filed with the SEC on April 2, 2021.

Subject to the terms and conditions of the Sales Agreement, the Sales Agents, whether acting as the Company’s sales agents or as Forward Sellers, will use their commercially reasonable efforts, consistent with their normal trading and sales practices and applicable law and regulations, to sell the Common Stock that may be designated by the Company (if acting as the Company’s sales agents) and the Common Stock borrowed from third parties (if acting as Forward Sellers), in each case on the terms and subject to the conditions of the Sales Agreement. Sales, if any, of the Common Stock made through the Sales Agents, as the Company’s sales agents, or as Forward Sellers pursuant to the Sales Agreement, may be made in “at the market” offerings (as defined in Rule 415 under the Securities Act of 1933, as amended (the “Securities Act”)), by means of ordinary brokers’ transactions on the New York Stock Exchange or sales made to or through market makers at market prices prevailing at the time of sale, and in privately negotiated transactions, which may include block trades, as the Company and any Sales Agent or Forward Seller may agree. The Company also may sell Common Stock to any Sales Agent as principal for its own account. If the Company sells Common Stock to any Sales Agent as principal, it will enter into a separate terms agreement (each, a “Terms Agreement”, and collectively, the “Terms Agreements”) setting forth the terms of such transaction.

The Company or any Sales Agent may at any time suspend an offering of Common Stock pursuant to the terms of the Sales Agreement. The offering of Common Stock pursuant to the Sales Agreement will terminate upon the earlier of (i) the sale of the Common Stock under the Sales Agreement (including Common Stock sold by the Company to or through the Sales Agent and borrowed Common Stock sold through the Sales Agents, acting as Forward Sellers) and the Terms Agreements, if any, having an aggregate gross sales price equal to \$1,250,000,000 and (ii) the termination of the Sales Agreement by the Company, the Sales Agents or the Forward Purchasers as permitted therein.

The Company and the Operating Partnership made certain customary representations, warranties and covenants concerning the Company, the Operating Partnership and the registration statement in the Sales Agreement and also agreed to indemnify the Sales Agents and the Forward Purchasers against certain liabilities, including liabilities under the Securities Act.

The Sales Agreement provides that, in addition to issuance and sale of Common Stock through the Sales Agents, the Company also may enter into a master forward sale confirmation (each, a “Master Confirmation”) (as supplemented by a supplemental confirmation (together with the applicable Master Confirmation, a “Forward Sale Agreement”)) with each of Bank of Montreal, Bank of America, N.A., Citibank, N.A., JPMorgan Chase Bank, National Association and Royal Bank of Canada, or one of their respective affiliates, as forward purchaser (in such capacity, each a “Forward Purchaser,” and together, the “Forward Purchasers”) in a form attached as Exhibit 99.1 to this report. In connection with any Forward Sale Agreement, the relevant Forward Seller (or its affiliate) will, at the Company’s request, use commercially reasonable efforts, consistent with its normal trading and sales practices and applicable law and regulations, to borrow from third parties and sell a number of shares of Common Stock equal to the number of shares of Common Stock underlying the particular Forward Sale Agreement. In this Current Report on Form 8-K, a Sales Agent, when acting as sales agent for the relevant Forward Purchaser, is referred to as, individually, a “Forward Seller” and collectively, the “Forward Sellers.” Unless otherwise expressly stated or the context

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otherwise requires, references herein to the “related” or “relevant” Forward Purchaser mean, with respect to any Sales Agent, the affiliate of such Sales Agent that is acting as Forward Purchaser or, if applicable, such Sales Agent acting in its capacity as Forward Purchaser. The Company will not initially receive any proceeds from any sales of Common Stock by a Forward Seller in connection with a Forward Sale Agreement. The Company expects to fully physically settle each Forward Sale Agreement with the relevant Forward Purchaser on one or more dates specified by the Company on or prior to the maturity date of such Forward Sale Agreement, in which case the Company expects to receive aggregate cash proceeds at settlement equal to the number of shares of the Common Stock underlying such Forward Sale Agreement multiplied by the then-applicable forward sale price per share. Although the Company expects to settle any Forward Sale Agreements by the physical delivery of shares of Common Stock in exchange for cash proceeds, the Forward Sale Agreements will allow the Company to cash or net-share settle all or a portion of its obligations. If the Company elects to cash settle any Forward Sale Agreement, the Company may not receive any proceeds, and the Company may owe cash to the relevant Forward Purchaser. If the Company elects to net share settle any Forward Sale Agreement, the Company will not receive any cash proceeds, and the Company may owe shares of Common Stock to the relevant Forward Purchaser.

The Company intends to use the net proceeds from any sales of Common Stock to or through the Sales Agents or by the Forward Sellers, including from the settlement of any Forward Sale Agreements, if any, for general corporate purposes, including working capital; acquisitions; repayment of debt, including amounts outstanding from time to time under the Company’s senior credit facility; and other business opportunities.

The compensation to each Sales Agent will be a mutually agreed commission that will not exceed, but may be lower than, 2.0% of the gross sales price of the Common Stock sold through it as the Company’s sales agent pursuant to the Sales Agreement. The compensation to each Sales Agent acting as a Forward Seller will be a mutually agreed commission in the form of a reduction to the initial forward price under the related Forward Sale Agreement that will not exceed, but may be lower than, 2.0% of the volume weighted average of the sales prices of all borrowed shares of Common Stock sold through such Sales Agent, acting as Forward Seller, during the applicable forward hedge selling period for such Common Stock.

The foregoing description of the Sales Agreement and the Forward Sale Agreements does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Sales Agreement and the Form of Master Forward Confirmation, copies of which are attached hereto as Exhibits 1.1 and 99.1, respectively, and the terms of which are incorporated herein by reference.

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

1.1*	<a href="#"><u>At the Market Offering Sales Agreement among Sun Communities, Inc., Sun Communities Operating Limited Partnership, BMO Capital Markets Corp., BofA Securities, Inc., Citigroup Global Markets Inc., J.P. Morgan Securities LLC, RBC Capital Markets, LLC, Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez &amp; Company, Inc. and Robert W. Baird &amp; Co. Incorporated, in their capacity as Sales Agents (as defined above), principal and/or (except in the case of Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez &amp; Company, Inc. and Robert W. Baird &amp; Co. Incorporated) forward seller, and each of Bank of Montreal, Bank of America, N.A., Citibank, N.A., JPMorgan Chase Bank, National Association and Royal Bank of Canada, as forward purchaser, dated December 17, 2021.</u></a>
5.1	<a href="#"><u>Opinion of Baker, Donelson, Bearman, Caldwell &amp; Berkowitz, a Professional Corporation</u></a>
23.1	<a href="#"><u>Consent of Baker, Donelson, Bearman, Caldwell &amp; Berkowitz, a Professional Corporation (included in Exhibit 5.1)</u></a>
99.1	<a href="#"><u>Form of Master Forward Confirmation</u></a>
104	Cover Page Interactive Data File (embedded withing the Inline XBRL document)

\* Certain schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K because such schedules and exhibits do not contain information which is material to an investment decision or which is not otherwise disclosed in the filed agreements. The Company will furnish the omitted schedules and exhibits to the SEC upon request by the SEC.

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## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: December 17, 2021

SUN COMMUNITIES, INC.

By: /s/ Karen J. Dearing

Karen J. Dearing, Executive Vice President,  
Chief Financial Officer, Secretary and Treasurer

## **SUN COMMUNITIES, INC.**

### **At the Market Offering Sales Agreement**

December 17, 2021

BMO Capital Markets Corp.  
151 W 42<sup>nd</sup> Street  
New York, New York 10036

BofA Securities, Inc.  
One Bryant Park  
New York, New York 10036

Citigroup Global Markets Inc.  
388 Greenwich Street  
New York, New York 10013

J.P. Morgan Securities LLC  
383 Madison Avenue, 6th Floor  
New York, New York 10179

RBC Capital Markets, LLC  
200 Vesey Street  
New York, New York 10281

Regions Securities LLC  
615 South College Street, Suite 600  
Charlotte, North Carolina 28202

Fifth Third Securities, Inc.  
424 Church Street, Maildrop: UTFC6B  
Nashville, Tennessee 37219

BTIG, LLC  
65 East 55<sup>th</sup> Street  
New York, New York 10022

Jefferies LLC  
520 Madison Avenue  
New York, New York 10022

Bank of Montreal  
55 Bloor Street West, 18th Floor  
Toronto, Ontario M5X 1A1  
Canada

Bank of America, N.A.  
One Bryant Park  
New York, New York 10036

Citibank, N.A.  
390 Greenwich Street  
New York, New York 10013

JPMorgan Chase Bank, National Association  
383 Madison Avenue, 6th Floor  
New York, New York 10179

Royal Bank of Canada  
200 Vesey Street  
New York, New York 10281

Samuel A. Ramirez & Company, Inc.  
61 Broadway, 29th Floor  
New York, New York 10006

Robert W. Baird & Co. Incorporated  
777 E. Wisconsin Avenue  
Milwaukee, Wisconsin 53202

*As Sales Agents*

*As Forward Purchasers*

Ladies and Gentlemen:

Sun Communities, Inc., a corporation organized and existing under the laws of the State of Maryland (the “**Company**”), and Sun Communities Operating Limited Partnership, a Michigan limited partnership (the “**Operating Partnership**”), confirm their agreement (this “**Agreement**”) with BMO Capital Markets Corp. (“**BMO**”), BofA Securities, Inc. (“**BofA**”), Citigroup Global Markets Inc. (“**Citigroup**”), J.P. Morgan Securities LLC (“**JPM**”), RBC Capital Markets, LLC, Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez & Company, Inc. and Robert W. Baird & Co. Incorporated as sales agent, principal and/or (except in the case of Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez & Company, Inc. and Robert W. Baird & Co. Incorporated) forward seller (in such capacity, each a “**Sales Agent**” and collectively, the “**Sales Agents**”), and each of Bank of Montreal, Bank of America, N.A., Citibank, N.A., JPMorgan Chase Bank, National Association and Royal Bank of Canada, or one of their respective affiliates, as forward purchaser (in such capacity, each a “**Forward Purchaser**” and collectively, the “**Forward Purchasers**”). Although the Sales Agents and the Forward Purchasers are signing jointly to the Agreement, it is understood that each Sales Agent and each Forward Purchaser is individually responsible for carrying out its responsibilities pursuant to the Agreement.

For purposes of clarity, it is understood and agreed by the parties hereto that, if Forward Hedge Shares (as defined below) are offered or sold through a Sales Agent acting as forward seller for the applicable Forward Purchaser, then such Sales Agent, as forward seller, shall be acting as sales agent for the applicable Forward Purchaser with respect to the offer and sale of such Forward Hedge Shares, and, except in cases where this Agreement expressly refers to a Sales Agent acting as sales agent for the Company or unless otherwise expressly stated or the context otherwise requires, references in this Agreement to a Sales Agent acting as sales agent shall also be deemed to apply to such Sales Agent when acting as forward seller, *mutatis mutandis*.

1. Description of Shares. The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may (1) issue and sell through or to the Sales Agents, acting as agents and/or principals, the Company's shares of common stock, \$0.01 par value per share (the “**Common Stock**”), and (2) instruct the applicable Sales Agents, each as forward seller, to offer and sell shares of Common Stock borrowed by the applicable Forward Purchasers or its affiliate (any such shares, “**Forward Hedge Shares**”), in each case on the terms and subject to the conditions set forth in this Agreement, any Confirmation (as defined below) and any Terms Agreement (as defined below), as applicable. The aggregate gross sales price of the shares (the “**Shares**”) of Common Stock that may be sold pursuant to this Agreement (including any Forward Hedge Shares, but not including any Confirmation Shares (as defined below)) and any Terms Agreement shall not exceed \$1,250,000,000 (the “**Maximum Amount**”). References herein to this “Agreement” or to matters contained “herein” or “hereunder,” or words of similar import, mean this Agreement and, to the

extent relevant and unless otherwise stated or the context otherwise requires, any Confirmation and any Terms Agreement. Any Shares issued and sold by the Company through a Sales Agent, as sales agent for the Company, or to a Sales Agent, as principal, pursuant to this Agreement and, if applicable, any Terms Agreement are hereinafter sometimes called “**Primary Shares.**” Any shares of Common Stock to be delivered by the Company to a Forward Purchaser in settlement of all or any portion of the Company’s obligations under any applicable Confirmation are hereinafter sometimes called “**Confirmation Shares.**”

Each of the Company and the Operating Partnership agrees that, whenever the Company determines to sell Shares directly to a Sales Agent as principal, it will enter into a separate agreement (each, a “**Terms Agreement**”), in form and substance mutually satisfactory to the Company, the Operating Partnership and such Sales Agent, relating to such sale in accordance with Section 2 hereof. In addition, the Company agrees that if it enters into one or more forward stock purchase transactions (each, a “**Forward**”) with a Forward Purchaser as set forth in one or more separate letter agreements (each, a “**Master Confirmation**”) and supplemented by one or more supplemental confirmations (each, a “**Supplemental Confirmation,**” and together with the relevant Master Confirmation, a “**Confirmation**”), substantially in the form set forth in Schedule 4 (as supplemented by the applicable Forward Placement Notice (as defined in Section 2(a)(i) hereof)), relating to the applicable Forward, then the Company will, on the respective terms and subject to the respective conditions set forth in such Confirmation and in this Agreement (including the Company’s option to elect Cash Settlement or Net Share Settlement (each as defined in each applicable Confirmation)), deliver to the applicable Forward Purchaser, or a respective affiliate thereof (including the Sales Agent affiliated with such Forward Purchaser), up to the maximum number of shares of Common Stock that may be sold and/or delivered in accordance with this Agreement in connection with such Confirmation. In connection therewith, it is contemplated that the applicable Forward Purchaser will offer and sell through the applicable Sales Agent (which shall be either the same entity as the Forward Purchaser or an affiliate thereof), acting as forward seller on behalf of the Forward Purchaser on the terms and subject to the conditions set forth in this Agreement, Forward Hedge Shares to be borrowed by such Forward Purchaser or its affiliate. In the event of a conflict between the terms of this Agreement and those of any Terms Agreement or any Confirmation (including the related Forward Placement Notice), the terms of such Terms Agreement or Confirmation, as the case may be, shall control.

Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitation set forth in this Section 1 on the number of Shares issued and sold under this Agreement shall be the sole responsibility of the Company, and the Sales Agents and the Forward Purchasers shall have no obligation in connection with such compliance. The issuance and sale of Shares through the Sales Agents will be effected pursuant to the Registration Statement (as defined below), which was filed by the Company with the Securities and Exchange Commission (the “**Commission**”) and became effective under Rule 462(e) under the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the “**Securities Act**”).

The Company has filed, in accordance with the provisions of the Securities Act, with the Commission a registration statement on Form S-3 (File No. 333-255020), including a Base Prospectus (defined below), relating to certain securities, including the Shares to be issued from time to time by the Company, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (collectively, the “**Exchange Act**”). The Company has prepared a Prospectus Supplement (defined below) to the Base Prospectus specifically relating to the sale of the Shares pursuant to an “at the market” offering as defined in Rule 415 of the Securities Act. The “**Registration Statement**”, as of any time, means such registration statement as amended by any post-effective amendments thereto at such time,

including the exhibits and any schedules thereto at such time, the documents incorporated or deemed to be incorporated by reference therein at such time pursuant to Item 12 of Form S-3 under the Securities Act and the documents otherwise deemed to be a part thereof as of such time pursuant to Rule 430B of the Securities Act (“**Rule 430B**”); provided, however, that the “Registration Statement” without reference to a time means such registration statement as amended by any post-effective amendments thereto as of the time of the first contract of sale for the Shares, which time shall be considered the “new effective date” of the Registration Statement with respect to the Shares within the meaning of paragraph (f)(2) of Rule 430B (“**Rule 430B(f)(2)**”), including the exhibits and any schedules thereto at such time, the documents incorporated or deemed to be incorporated by reference therein at such time pursuant to Item 12 of Form S-3 under the Securities Act and the documents otherwise deemed to be a part thereof as of such time pursuant to Rule 430B. “**Base Prospectus**” means the base prospectus, including all documents incorporated therein by reference, included in the Registration Statement, as it may be supplemented by the Prospectus Supplement. “**Prospectus Supplement**” means the final prospectus supplement relating to the Shares, filed by the Company with the Commission pursuant to Rule 424(b) under the Securities Act and in the form furnished to the Sales Agents by the Company in connection with the offering of the Shares. “**Free Writing Prospectus**” means any “issuer free writing prospectus” as defined in Rule 433 of the Securities Act, relating to the Shares that (i) is required to be filed with the Commission by the Company or (ii) is exempt from filing pursuant to Rule 433(d)(5)(i) of the Securities Act, 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 Securities Act. The Base Prospectus, Prospectus Supplement, and any Free Writing Prospectus shall collectively be referred to herein as the “**Prospectus**.” Any reference herein to the Registration Statement, the Prospectus or any amendment or supplement thereto shall be deemed to refer to and include the documents incorporated by reference therein (or deemed to be incorporated by reference therein), and any reference herein to the terms “amend,” “amendment” or “supplement” with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof of any document with the Commission deemed to be incorporated by reference therein. For purposes of this Agreement, all references to the Registration Statement, the Prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to the Electronic Data Gathering Analysis and Retrieval System (“**EDGAR**”).

## 2. Sale and Delivery of Shares.

(a) On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, (I) the Company agrees to issue and sell through or to one or more Sales Agents, each as sales agent and/or principal, as and when it provides instructions, in its discretion, to any Sales Agent or Sales Agents for the offer and sale of Shares, and the applicable Sales Agent agrees to use its commercially reasonable efforts to sell, as sales agent for the Company, the Shares in accordance with the terms and subject to the conditions set forth in the relevant Regular Placement Notice (as defined below), this Agreement and, if applicable, the relevant Terms Agreements; and (II) if the Company enters into a Confirmation with a Forward Purchaser in accordance with Section 1 hereof, the applicable Sales Agent, as forward seller on behalf of such Forward Purchaser, agrees to use its commercially reasonable efforts to offer and sell the Forward Hedge Shares to be borrowed by such Forward Purchaser or its affiliate on the terms and subject to the conditions set forth in the relevant Forward Placement Notice, this Agreement and the applicable Confirmation.

(i) The Shares are to be sold on a daily basis or otherwise as shall be mutually agreed upon by the Company, the applicable Sales Agent and, if applicable, the relevant Forward Purchaser on any day that (I) is a trading day for the New York Stock Exchange (“**NYSE**”) (other than a day on which the NYSE is scheduled to close prior to its regular



weekday closing time), (II) the Company, through any of the individuals listed as authorized representatives of the Company on Schedule 1 hereto (the “**Authorized Company Representatives**”), has instructed the applicable Sales Agent by telephone (confirmed promptly by electronic mail addressed to each of the individuals from the applicable Sales Agent set forth on Schedule 2, as such schedule may be amended from time to time with prior written notice, but not to any other Sales Agent) to make sales of Shares on terms acceptable to such Sales Agent and (III) the Company has satisfied its obligations under Section 5 hereof. If the Company wishes to issue and sell through or to a Sales Agent, as sales agent and/or principal, it will so designate in a notice delivered by electronic mail to the applicable Sales Agent (with a copy to the other Sales Agents), substantially in the form attached hereto as Schedule 3-A (a “**Regular Placement Notice**”). If the Company wishes that a Sales Agent, as forward seller, offer and sell Forward Hedge Shares it will so designate in a notice delivered by electronic mail to the applicable Sales Agent and the applicable Forward Purchaser (with a copy to the other Sales Agents and other Forward Purchasers), substantially in the form attached hereto as Schedule 3-B (a “**Forward Placement Notice**”). Such Regular Placement Notice or Forward Placement Notice (a “**Placement Notice**”) shall specify: (1) any minimum price below which sales of Shares may not be effected, (2) in the case of a Forward Placement Notice, (A) the Forward Hedge Selling Period (as defined below), (B) the maximum aggregate gross sales price or the maximum number of Forward Hedge Shares to be sold by the applicable Sales Agent over the Forward Hedge Selling Period specified in such notice (such maximum aggregate gross sales price or share number, the “**Aggregate Maximum Forward Hedge Amount**”), (C) the Forward Seller Commission (as defined below), (D) the Spread, (E) the Initial Stock Loan Rate, (F) the Maximum Stock Loan Rate, (G) the Trade Date, (H) the Maturity Date, (I) the Forward Price Reduction Dates and (J) the Forward Price Reduction Amounts (each as defined in each applicable Confirmation), and (3) the maximum amount of Shares to be sold by the applicable Sales Agent daily as agreed to by the applicable Sales Agent and, if applicable, the relevant Forward Purchaser; *provided* that such amount shall not be in excess of the amount available for issuance under the Prospectus and the Registration Statement or in an amount in excess of the Maximum Amount; and *provided, further*, that, in the case of a Forward Placement Notice, (x) the sum of (1) the number of Confirmation Shares issued under all Confirmations that have settled as of the contemplated date of delivery, (2) the aggregate Capped Number (as defined in each applicable Confirmation) under all Confirmations outstanding as of the contemplated date of delivery that have not settled and (3) the proposed Capped Number for the Confirmation related to such Forward Placement Notice shall not exceed (y) 19.99% of the number of shares of Common Stock outstanding as of the date of this Agreement. The Placement Notice may also specify any other limitations mutually agreed to by the applicable Sales Agent and, if applicable, the relevant Forward Purchaser. Subject to the terms and conditions of this Section 2(a), the applicable Sales Agent may sell Shares by any method permitted by law deemed to be an “at the market” offering as defined in Rule 415 under the Act (an “**At the Market Offering**”), including without limitation sales made directly on the NYSE, on any other existing trading market for the Shares to or through a market maker, or directly to any customer or client of the applicable Sales Agent. The applicable Sales Agent may also sell Shares by any other method permitted by law, including but not limited to in privately negotiated transactions, as shall be mutually agreed upon by the Company, such Sales Agent and, if applicable, such Forward Purchaser. The “**Forward Hedge Selling Period**” means the period of such number of consecutive trading days (as specified in the applicable Forward Placement Notice), beginning on the date specified in such Forward Placement Notice or, if such date is not a trading day, the next trading day following such date and ending on the last such trading day or such earlier date on which the applicable Sales Agent, as forward seller, shall have completed the sale of Forward Hedge Shares in connection with the relevant Confirmation; *provided, however*, that if, prior to the

scheduled end of any Forward Hedge Selling Period (x) any event occurs that would permit the Forward Purchaser to designate a Scheduled Trading Day as an Early Valuation Date (each as defined in each applicable Confirmation) under, and pursuant to, the provisions of Section 2 of the applicable Confirmation or (y) a Bankruptcy Termination Event (as defined in each applicable Confirmation) occurs, then the Forward Hedge Selling Period shall, upon the applicable Sales Agent, as forward seller, becoming aware of such occurrence, immediately terminate as of the first such occurrence; and *provided, further*, that any Forward Hedge Selling Period then in effect shall immediately terminate upon the termination of this Agreement. The applicable Sales Agent may accept such Placement Notice by telephone or in writing (including electronic mail).

(ii) It is expressly acknowledged and agreed that neither the Company nor the Sales Agents or the Forward Purchaser will have any obligation whatsoever with respect to a Placement Notice unless and until the Company delivers a Placement Notice to a Sales Agent and any applicable Forward Purchaser and such Sales Agent and any applicable Forward Purchaser confirms the proposed terms set forth in the Placement Notice are acceptable to the Sales Agent and any applicable Forward Purchaser and executes such Placement Notice, and then only upon the terms specified therein and herein. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice that a Sales Agent and any applicable Forward Purchaser has not declined, the terms of the Placement Notice will control, but only with respect to the sale of Shares to which such Placement Notice relates.

(iii) Prior to the opening of trading on the immediately following trading day of a Sales Agent's and the applicable Forward Purchaser's acceptance of a Forward Placement Notice, the Company shall have executed and delivered a Master Confirmation to the applicable Forward Purchaser substantially in the form set forth in Schedule 4 hereto and consistent with such Forward Placement Notice; provided that the Company shall be required to only execute one Master Confirmation with each Forward Purchaser. Prior to the first trading day following the applicable Hedge Completion Date (as defined in each applicable Confirmation) relating to such Forward, the Company shall have executed and delivered a Supplemental Confirmation to the applicable Forward Purchaser in form and substance satisfactory to such Forward Purchaser relating to such Forward.

(iv) Notwithstanding the foregoing, the Company, through any of the Authorized Company Representatives, may instruct the applicable Sales Agent by telephone (confirmed promptly by electronic mail addressed to each of the individuals from the applicable Sales Agent set forth on Schedule 2) not to sell Shares if such sales cannot be effected at or above the price designated by the Company in any such instruction. In addition, the Company or the applicable Sales Agent may, upon notice to the other parties hereto by telephone (confirmed promptly by electronic mail addressed to each of the individuals from the applicable Sales Agent set forth on Schedule 2), suspend the offering of the Shares through such Sales Agent for a specified period (a "**Suspension Period**"); provided, however, that (A) such Suspension Period shall apply solely to the applicable Sales Agent, (B) any Placement Notice related to such Sales Agent during the Suspension Period shall not be deemed to be pending for the purposes of Sections 4(q), 4(r), 4(s), and 4(t), and (C) such Suspension Period shall not affect or impair the parties' respective obligations with respect to Shares sold hereunder prior to the giving of such notice and any Confirmation executed and delivered by the Company and a Forward Purchaser prior to the receipt of such notice under which Forward Hedge Shares have been sold.

(v) Each Sales Agent hereby covenants and agrees not to make any sales of Shares on behalf of the Company or the relevant Forward Purchaser, pursuant to this Section 2(a), other than (A) by means of At the Market Offerings and (B) such other sales of Shares as sales agent for the Company or the relevant Forward Purchaser as shall be mutually agreed upon by the Company, such Sales Agent and, if applicable, such Forward Purchaser.

(vi) The amount of any discount, commission or other compensation to be paid by the Company to the Sales Agents in connection with the sale of the Shares shall be calculated in accordance with the terms set forth in Schedule 5 and the applicable Placement Notice. The amount of any discount, commission or other compensation to be paid by the Company to each Sales Agent, as forward seller for the applicable Forward Purchaser, for sales of Forward Hedge Shares shall be calculated in accordance with the terms set forth in Schedule 5 and the applicable Placement Notice (the “**Forward Seller Commission**”). The remaining proceeds, after further deduction for any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales, shall constitute the net proceeds to the Company or the Forward Purchasers, as applicable, from the sale of such Shares (the “**Net Proceeds**”).

(vii) Each Sales Agent, as sales agent or as forward seller hereunder, shall provide written confirmation to the Company and, if applicable, the relevant Forward Purchaser (which may be by electronic mail) as soon as is reasonably practicable following the close of trading on the NYSE each day on which Shares are sold pursuant to this Section 2(a) setting forth (A) the number of Primary Shares or Forward Hedge Shares sold on such day, (B) the Net Proceeds to the Company or the Forward Purchaser, as applicable, (C) the Initial Forward Price (as defined in each applicable Confirmation) as of such day under any Confirmation pursuant to which Forward Hedge Shares were sold on such day, (D) the aggregate gross sales proceeds of such Shares and (E) any compensation payable by the Company to such Sales Agent with respect to such sales.

(viii) Settlement for sales of Shares pursuant to this Section 2(a) will occur on the second business day (or such earlier day as is industry practice for regular-way trading and as mutually agreed by the Company, the applicable Sales Agent and, if applicable, the relevant Forward Purchaser) that is also a trading day on the NYSE following the date on which such sales are made (each such date, a “**Settlement Date**”). On each Settlement Date for the sale of Primary Shares through a Sales Agent as sales agent for the Company or to a Sales Agent as principal (each such day, a “**Direct Settlement Date**”), the Net Proceeds from the sale of such Primary Shares shall be delivered to the Company in same day funds to an account designated by the Company in writing prior to such Direct Settlement Date against receipt of the Primary Shares sold. Settlement for all such Primary Shares shall be effected by free delivery of the Primary Shares by the Company or its transfer agent to the applicable Sales Agent’s account, or to the account of such Sales Agent’s designee, at The Depository Trust Company through its Deposit and Withdrawal at Custodian System (“**DWAC**”) or by such other means of delivery as may be mutually agreed upon by the relevant parties hereto, which in all cases shall be freely tradable, transferable, registered shares in good deliverable form. If the Company, or its transfer agent (if applicable), shall default upon its obligation to deliver the Primary Shares on any Direct Settlement Date, the Company agrees that in addition to and in no way limiting the rights and obligations set forth in Section 6 hereof, it shall (A) indemnify and hold the applicable Sales Agent harmless against any loss, claim or damage arising from or as a result of such default by the Company or its transfer agent and (B) pay the applicable Sales Agent any commission to which it would otherwise be entitled absent such default. The Authorized Company Representatives shall be the contact persons for the Company for all matters related to the settlement of the transfer of

the Shares through DWAC for purposes of this Section 2(a)(viii). On each Settlement Date for the sale of Forward Hedge Shares through a Sales Agent as forward seller for the applicable Forward Purchaser (each such day, a “**Forward Settlement Date**”), the Net Proceeds from the sale of such Forward Hedge Shares shall be delivered to the applicable Forward Purchaser in same day funds to an account designated by the applicable Forward Purchaser in writing prior to such Forward Settlement Date against receipt of the Forward Hedge Shares sold. Settlement for all such Forward Hedge Shares shall be effected by free delivery of the Forward Hedge Shares by the relevant Forward Purchaser to the applicable Sales Agent’s account, or to the account of such Sales Agent’s designee through DWAC or by such other means of delivery as may be mutually agreed upon by the relevant parties hereto, which in all cases shall be freely tradable, transferable, registered shares in good deliverable form.

(ix) At each Applicable Time, Settlement Date, Representation Date (each as defined in Sections 18, 2(a)(viii) and 4(q) hereof, respectively) and Trade Date (as defined in each applicable Confirmation), the Company and the Operating Partnership shall be deemed to have affirmed each representation and warranty contained in this Agreement. Any obligation of a Sales Agent to use its commercially reasonable efforts to sell Shares shall be subject to the continuing accuracy of the representations and warranties of the Company and the Operating Partnership herein, to the performance by the Company and the Operating Partnership of their respective obligations hereunder and to the continuing satisfaction of the additional conditions specified in Section 5 hereof.

(b) If the Company wishes to issue and sell the Shares other than as set forth in Section 2(a) hereof (each, a “**Placement**”), it will notify the applicable Sales Agent of the proposed terms of such Placement. If such Sales Agent, as principal, wishes to accept such proposed terms (which it may decline to do for any reason in its sole discretion) or, following discussions with the Company, wishes to accept amended terms, the Company, the Operating Partnership and such Sales Agent will enter into a Terms Agreement setting forth the terms of such Placement.

(c) (i) Under no circumstances shall the aggregate gross sales proceeds of the Shares sold pursuant to this Agreement exceed the lesser of (A) the Maximum Amount and (B) the amount available for offer and sale under the Prospectus and the Registration Statement, nor shall the aggregate amount of Shares sold pursuant to this Agreement exceed the amount of Shares authorized to be sold under this Agreement by the Company’s Board of Directors, or a duly authorized committee thereof, and notified to each Sales Agent and each Forward Purchaser in writing. Further, under no circumstances shall the aggregate gross sales proceeds from Shares sold pursuant to this Agreement, including any separate Terms Agreement or similar agreement covering principal transactions described herein, exceed the Maximum Amount.

(ii) If the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied with respect to the Company or the Shares, the Company shall promptly notify the other parties, and sales of the Shares under this Agreement and any Terms Agreement shall be suspended until that or other exemptive provisions have been satisfied in the judgment of each party.

(d) Each sale of the Shares through or to a Sales Agent shall be made in accordance with the terms of this Agreement and, if applicable, a Confirmation or a Terms Agreement.

(e) (i) Notwithstanding any other provision of this Agreement, the Company shall not offer, sell or deliver, or request the offer or sale of, any Shares and, by notice to the applicable Sales Agent and, if applicable, the relevant Forward Purchaser, shall cancel any

instructions for the offer or sale of any Shares, and no Sales Agents shall be obligated to offer or sell any Shares: (x) during any period in which the Company's insider trading or similar policy, as it exists on the date of this Agreement, would prohibit the purchase or sale of Common Stock by persons subject to such policy, or during any period in which the Company is, or could be deemed to be, in possession of material non-public information, or (y) except as provided in clause (ii) of this Section 2(e), from seven calendar days prior to the date (each, an **"Announcement Date"**) of any public announcement or release disclosing the Company's results of operations or financial condition for a completed quarterly or annual fiscal period through and including the time that is 24 hours after the Company files (a **"Filing Time"**) a Quarterly Report on Form 10-Q or an Annual Report on Form 10-K that includes consolidated financial statements as of and for the same period or periods, as the case may be, covered by such announcement or release.

(ii) If the Company wishes to offer, sell or deliver Shares at any time during the period from and including an Announcement Date through and including the time that is 24 hours after the corresponding Filing Time, then the Company shall (1) prepare and deliver to the applicable Sales Agent and, if applicable, the relevant Forward Purchaser (with a copy to their counsel) a Current Report on Form 8-K which shall include substantially the same financial and related information as was set forth in the relevant earnings announcement (other than any earnings projections, similar forward-looking data and officers' quotations) (each, an **"Earnings 8-K"**), in form and substance reasonably satisfactory to such Sales Agent and, if applicable, such Forward Purchaser, and obtain the consent of such Sales Agent and, if applicable, such Forward Purchaser to the filing thereof (such consent not to be unreasonably withheld), (2) provide such Sales Agent and, if applicable, such Forward Purchaser with the certificate, opinions/letters of counsel and comfort letter called for by Sections 4(q), (r), and (s) hereof, respectively, (3) afford such Sales Agent and, if applicable, such Forward Purchaser the opportunity to conduct a due diligence review in accordance with Section 4(t) hereof, and (4) file such Earnings 8-K with the Commission. If the Company satisfies such obligations, then the provisions of clause (y) of Section 2(e)(i) shall not be applicable for the period from and after the time at which the foregoing conditions shall have been satisfied (or, if later, the time that is 24 hours after the relevant Announcement Date) through and including the time that is 24 hours after the Filing Time of the relevant Quarterly Report on Form 10-Q or Annual Report on Form 10-K, as the case may be. For purposes of clarity, the parties hereto agree that (A) the delivery of any certificate, opinions/letters of counsel and comfort letter pursuant to this Section 2(e) shall not relieve the Company from any of its obligations under this Agreement with respect to any Quarterly Report on Form 10-Q or Annual Report on Form 10-K, as the case may be, including, without limitation, the obligation to deliver certificates, opinions/letters of counsel and comfort letters as provided in Section 4 hereof and (B) this clause (ii) shall in no way affect or limit the operation of the provisions of clause (x) of Section 2(e)(i), which shall have independent application.

(f) The Company acknowledges and agrees that (i) there can be no assurance that any Sales Agent will be successful in selling Shares or that any Forward Purchaser or its affiliate will be successful in borrowing any Forward Hedge Shares, (ii) no Sales Agent will incur any liability or obligation to the Company or any other person or entity if it does not sell Shares for any reason other than a failure by such Sales Agent to use its commercially reasonable efforts consistent with its normal trading and sales practices and applicable law and regulations to sell such Shares in accordance with the terms of this Agreement, (iii) other than to the extent set forth in the applicable Confirmation, no Forward Purchaser will incur any liability or obligation to the Company or any other person or entity if it or its affiliate does not borrow Forward Hedge Shares for any reason other than a failure by such Forward Purchaser to use its commercially reasonable efforts to borrow or cause its affiliate to borrow such Forward Hedge

Shares, and (iv) no Sales Agent shall be under any obligation to purchase Shares on a principal basis pursuant to this Agreement unless a Terms Agreement, in form and substance mutually satisfactory to the Company, the Operating Partnership and the applicable Sales Agent, shall have been executed by the Company, the Operating Partnership and such Sales Agent.

(g) The Company agrees that (i) any offer to sell, any solicitation of an offer to buy, or any sales of Shares shall only be effected by or through one Sales Agent on any single given day, (ii) it shall in no event request that more than one Sales Agent sell Shares on the same day, and (iii) it shall in no event request that a Sales Agent offer and sell Shares (whether acting as sales agent, forward seller or principal) during any Unwind Period (as defined in each applicable Confirmation).

(h) The Company agrees to reserve and keep available at all times, free of preemptive rights, a number of shares of Common Stock equal to one and a half times the number of Forward Hedge Shares for each Confirmation (as adjusted for stock splits and similar events pursuant to the relevant Confirmation) for the purpose of enabling the Company to satisfy its obligations under each applicable Confirmation.

(i) Notwithstanding anything herein to the contrary, in the event that either (i) despite using commercially reasonable efforts, a Forward Purchaser or its affiliate is unable to borrow and deliver a number of Forward Hedge Shares equal to the Aggregate Maximum Forward Hedge Amount for sale under this Agreement, as set forth in the relevant Forward Placement Notice pursuant to Section 2(a) hereof, or (ii) in the commercially reasonable judgment of such Forward Purchaser, after using commercially reasonable efforts it is either impracticable to do so or such Forward Purchaser or its affiliate would incur a stock loan cost that is equal to or greater than the applicable Maximum Stock Loan Rate (as defined in each applicable Confirmation) to do so, then the applicable Sales Agent, as forward seller, shall be obligated to use commercially reasonable efforts to sell only the aggregate number of Forward Hedge Shares that such Forward Purchaser is able to, and that in the commercially reasonable judgment of such Forward Purchaser it is practicable to, so borrow below such cost. For the avoidance of doubt, the obligations of any Sales Agent hereunder with respect to the borrowing, offer or sale of any Forward Hedge Shares in connection with a Forward shall be subject to the related Confirmation being effective and not having been terminated.

(j) On each of March 31, June 30, September 30 and December 31 of each year, beginning on December 31, 2021 (unless earlier terminated pursuant to Section 8 herein), the Company will provide each of the Sales Agents by email notice the quarterly information set forth on Schedule 8; provided, however, that the Company shall not be required to provide such quarterly information to the Sales Agents with respect to any quarter in which the Company delivers no Placement Notices and no Shares are sold.

3. Representations and Warranties of the Company and the Operating Partnership. Each of the Company and the Operating Partnership jointly and severally represents and warrants to, and agrees with, each Sales Agent and each Forward Purchaser that as of each Applicable Time (as defined in Section 18(a)):

(a) The Company satisfies the requirements for use of Form S-3 under the Securities Act and has prepared and filed with the Commission the Registration Statement for registration under the Securities Act of the offering and sale of the Shares. Such Registration Statement, including any amendments thereto filed prior to the Applicable Time, has become effective upon filing. The Registration Statement, at the Applicable Time, meets, and the offer and sale of the Shares as contemplated hereby complies with, the requirements of Rule 415 under the Securities Act. At the Applicable Time, the Registration Statement did, and when the Prospectus is first filed in accordance with Rule 424(b), the Prospectus will, comply in all

material respects with the applicable requirements of the Securities Act and the Exchange Act and the respective rules thereunder, and at the Applicable Time, the Registration Statement did not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading; and on the date of any filing pursuant to Rule 424(b), the Prospectus 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, in the light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representations or warranties as to the information contained in or omitted from the Registration Statement or the Prospectus (or any supplement thereto) in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of the Sales Agents or the Forward Purchasers specifically for inclusion in the Registration Statement or the Prospectus (or any supplement thereto), it being understood and agreed that the only such information furnished by or on behalf of the Sales Agents or the Forward Purchasers consists of the information described as such in Section 6(a) hereof. The Company has complied to the Commission's satisfaction with any requests of the Commission for additional or supplemental information. No stop order suspending the effectiveness of the Registration Statement or any part thereof has been issued and, to the knowledge of the Company, no proceeding for that purpose has been instituted or threatened by the Commission or by the state securities authority or any jurisdiction. No order preventing or suspending the use of the Prospectus has been issued and, to the knowledge of the Company, no proceeding for that purpose has been instituted by the Commission or by the state securities authority of any jurisdiction. The initial effective date of the Registration Statement was not earlier than the date three years before the Applicable Time.

(b) (i) At the time of filing the Registration Statement, (ii) at each Applicable Time and (iii) at each Settlement Date, the Company was or is (as the case may be) a "well-known seasoned issuer" as defined in Rule 405 under the Securities Act. The Company agrees to pay the fees required by the Commission relating to the Shares within the time required by Rule 456(b)(1) without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r). The Registration Statement is an "automatic shelf registration statement," as defined in Rule 405 under the Securities Act, and the offer and sale of the Shares have been and remain eligible for registration by the Company on such automatic shelf registration statement. The Company has not received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to the use of the automatic shelf registration statement form.

(c) (i) At the earliest time after the filing of the Registration Statement that the Company or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Securities Act) in the offering of the Shares and (ii) as of each Applicable Time (with such date being used as the determination date for purposes of this clause (ii)), the Company was not and is not an Ineligible Issuer (as defined in Rule 405 under the Securities Act), without taking account of any determination by the Commission pursuant to Rule 405 under the Securities Act that it is not necessary under the circumstances that the Company be considered an Ineligible Issuer.

(d) Each Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the specific offering and sale of the Shares contemplated hereby, or until any earlier date that the Company notifies the Sales Agents and the Forward Purchasers in accordance with Section 4(e) hereof, did not, does not or will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, including any document included or incorporated by reference therein and any prospectus supplement deemed to be a part thereof that has not been superseded or modified. The foregoing sentence does not apply to statements in or omissions from any Free Writing Prospectus based upon and in conformity with written information furnished to the Company by the Sales Agents or the Forward Purchasers specifically for use therein, it being understood and agreed that the

only such information furnished by or on behalf of the Sales Agents or the Forward Purchasers consists of the information described as such in Section 6(a) hereof.

(e) All documents filed by the Company pursuant to Sections 12, 13, 14 or 15 of the Exchange Act and incorporated by reference into the Registration Statement or the Prospectus, when they became effective or were filed with the Commission, as the case may be, complied in all material respects with the requirements of the Securities Act or the Exchange Act, as applicable. Any further documents so filed, when such documents are filed or become effective by the Commission, as the case may be, will conform in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable.

(f) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Maryland with full corporate power and authority to own or lease, as the case may be, and to operate its properties and conduct its business as described in the Registration Statement and the Prospectus, and to enter into and perform its obligations under this Agreement and each applicable Confirmation and, as general partner of the Operating Partnership, to cause the Operating Partnership to enter into and perform the Operating Partnership's obligations under this Agreement and the Fourth Amended and Restated Agreement of Limited Partnership of the Operating Partnership, as amended (the "**Operating Partnership Agreement**"), and is duly qualified to do business as a foreign corporation and is in good standing under the laws of each jurisdiction which requires such qualification, except where the failure to be so qualified would not have a material adverse effect on the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business (a "**Material Adverse Effect**").

(g) The Operating Partnership has been duly formed and is validly existing as a limited partnership in good standing under the laws of the State of Michigan with full power and authority to own or lease, as the case may be, and to operate its properties and conduct its business as described in the Registration Statement and the Prospectus and to enter into and perform its obligations under this Agreement, and is duly qualified to do business and is in good standing as a foreign limited partnership under the laws of each jurisdiction which requires such qualification, except where the failure to be so qualified would not have a Material Adverse Effect.

(h) Each subsidiary of the Company has been duly formed and is validly existing as a corporation, limited liability company or limited partnership, as the case may be, in good standing under the laws of the jurisdiction in which it is chartered or organized with full power and authority (corporate and other) to own or lease, as the case may be, and to operate its properties and conduct its business as described in the Registration Statement and the Prospectus, and is duly qualified to do business as a foreign corporation, limited liability company or limited partnership, as the case may be, and is in good standing under the laws of each jurisdiction which requires such qualification, except where the failure to be so qualified would not have a Material Adverse Effect.

(i) All the outstanding shares of capital stock or other ownership interests of each subsidiary of the Company have been duly and validly authorized and issued and are fully paid and non-assessable, and, except as otherwise set forth in the Prospectus, all outstanding shares of capital stock or other ownership interests of the Company's subsidiaries are owned by the Company either directly or through wholly owned subsidiaries free and clear of any perfected security interest or any other security interests, claims, mortgages, pledges, liens, encumbrances or other restrictions of any kind (collectively, "**Liens**"). Except as set forth in the Prospectus, there are no outstanding options, warrants or other rights to purchase, agreements or other



obligations to issue, or rights to convert any obligations into or exchange any securities or interests for capital stock or other ownership interests of any subsidiary of the Company.

(j) The Company's authorized equity capitalization is as set forth in the Registration Statement and the Prospectus; the capital stock of the Company conforms in all material respects to the description thereof contained in the Registration Statement and the Prospectus; the outstanding shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable; the Primary Shares have been duly and validly authorized, and, when issued and delivered to and paid for by the Sales Agents pursuant to the terms of this Agreement, will be fully paid and non-assessable, free and clear of any Liens; the Confirmation Shares have been duly and validly authorized and reserved for issuance to each Forward Purchaser, or its affiliate, pursuant to the applicable Confirmation; when such Confirmation Shares are issued and delivered by the Company to such Forward Purchaser against payment of any consideration required to be paid by such Forward Purchaser pursuant to the terms of such Confirmation, such Confirmation Shares will be duly and validly issued and fully paid and non-assessable; the Primary Shares and the Confirmation Shares are duly listed, and admitted and authorized for trading, subject to official notice of issuance and evidence of satisfactory distribution, on the NYSE; the certificates for the Primary Shares and the Confirmation Shares are in valid and sufficient form; the holders of outstanding shares of capital stock of the Company are not entitled to preemptive or other rights to subscribe for the Primary Shares and the Confirmation Shares; except as set forth in the Prospectus, no options, warrants or other rights to purchase, agreements or other obligations to issue, or rights to convert any obligations into or exchange any securities for, shares of capital stock of or ownership interests in the Company are outstanding; and all offers and sales by the Company of the Common Stock prior to the date hereof were at all relevant times duly registered under the Securities Act or were exempt from the registration requirements of the Securities Act and were duly registered or the subject of an available exemption from the registration requirements of the applicable state securities or blue sky laws. No holders of any Primary Shares or any Confirmation Shares will be subject to personal liability for obligations of the Company solely by reason of being such a holder.

(k) All of the issued and outstanding units of limited partnership (the "**Units**") of the Operating Partnership have been duly and validly authorized and issued by the Operating Partnership and conform in all material respects to the description thereof contained in the Registration Statement and the Prospectus. None of the Units was issued or designated in violation of the preemptive or other similar rights of any security holder of the Operating Partnership or any other person or entity. Except as set forth in the Prospectus, there are no outstanding options, warrants or other rights to purchase, agreements or other obligations to issue, or rights to convert any obligations into or exchange any securities or interests for, Units or other ownership interests of the Operating Partnership. The Units owned by the Company are owned directly by the Company, free and clear of all Liens. The issuance of the common Units to be issued by the Operating Partnership in connection with the contribution of the net proceeds to the Operating Partnership from the sale of the Shares and the issuance of any Confirmation Shares (the "**New Common Units**") has been duly authorized, and, when issued and delivered by the Operating Partnership, the New Common Units will be validly issued and fully paid. The New Common Units will be exempt from registration or qualification under the Securities Act and applicable state securities laws. None of the New Common Units will be issued in violation of the preemptive or other similar rights of any security holder of the Operating Partnership or any other person or entity.

(l) There is no franchise, contract or other document of a character required to be described in the Registration Statement or the Prospectus, or to be filed as an exhibit thereto, which is not described or filed as required; and the statements included or incorporated by reference in the Prospectus under the headings "Plan of Distribution," "Prospectus Supplement

Summary,” “Risk Factors,” “Use of Proceeds,” “Description of Common Stock,” “Description of Preferred Stock,” “Description of Units,” “The Operating Partnership Agreement,” “Certain Provisions of Maryland Law and Our Charter and Bylaws” and “Material U.S. Federal Income Tax Considerations,” insofar as such statements summarize legal matters, agreements, documents or proceedings discussed therein, are accurate and fair summaries of such legal matters, agreements, documents or proceedings.

(m) This Agreement has been duly authorized, executed and delivered by each of the Company and the Operating Partnership. The form of the Master Confirmation and the Supplemental Confirmation has been duly authorized by the Company. When executed and delivered by the Company, each Confirmation (including the relevant Supplemental Confirmation to the applicable Master Confirmation) (i) will be, at the time of execution and delivery thereof, duly authorized, executed and delivered by the Company and, (ii) assuming the due authorization, execution and delivery thereof by the applicable Forward Purchaser, will constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws relating to or affecting creditors’ rights generally, by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) and, as to rights of indemnification and contribution, by federal or state securities law or principles of public policy.

(n) Neither the Company nor the Operating Partnership is, and after giving effect to the offering and sale of the Shares and the settlement of the Confirmation Shares pursuant to any Confirmation and the application of the proceeds thereof as described in the Prospectus will be, an “investment company” or “controlled” by an “investment company” as those terms are defined in the Investment Company Act of 1940, as amended.

(o) No consent, approval, authorization, filing with, registration, or order of any court or governmental agency or body is necessary or required for the performance by the Company and the Operating Partnership of their respective obligations hereunder in connection with the offering, issuance or sale of the Shares and any Confirmation Shares or the consummation of the transactions contemplated by this Agreement or any Confirmation, except such as have been made or obtained under the Securities Act and such as may be required under the blue sky laws of any jurisdiction in connection with the purchase and distribution of the Shares by the Sales Agents in the manner contemplated herein and in the Prospectus.

(p) The execution, delivery and performance by the Company and the Operating Partnership of this Agreement and each applicable Confirmation, as applicable, the issuance and sale of the Shares and any Confirmation Shares, the consummation of any other of the transactions herein contemplated, and the fulfillment of the terms hereof by the Company and the Operating Partnership does not and will not conflict with, result in a breach or violation of, or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, (i) the charter or bylaws of the Company or the organizational or other governing documents of any of its subsidiaries, (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company or any of its subsidiaries is a party or bound or to which its or their property is subject, except as would not have a Material Adverse Effect and would not have a material adverse effect on the performance of this Agreement or the consummation of any of the transactions contemplated hereby, or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Company or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or any of its subsidiaries or any of its or their properties, except as would not have a Material Adverse Effect and would not have a material adverse effect

on the performance of this Agreement or any Confirmation or the consummation of any of the transactions contemplated hereby or thereby.

(q) Except as set forth in the Prospectus and which have been waived, no holders of securities of the Company have rights to the registration of such securities under the Registration Statement as a result of or in connection with the offering contemplated by this Agreement or any Confirmation. Except as set forth in the Prospectus, there are no contracts, agreements or understandings between the Company or the Operating Partnership and any person granting such person the right to require the Company or the Operating Partnership to file a registration statement under the Securities Act with respect to any securities of the Company or the Operating Partnership owned or to be owned by such person or to require the Company or the Operating Partnership to include such securities in any securities being registered pursuant to any other registration statement filed by the Company or the Operating Partnership under the Securities Act.

(r) The financial statements and schedules, including the notes thereto, of the Company and its consolidated subsidiaries, filed with the Commission as part of or incorporated by reference in the Registration Statement, and included or incorporated by reference in the Prospectus, present fairly, in all material respects, the financial condition, results of operations and cash flows of the Company as of the dates and for the periods indicated, comply as to form with the applicable accounting requirements of the Securities Act and the Exchange Act and have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved (except as otherwise noted therein). The selected financial data set forth under the caption "Selected Financial Data" incorporated by reference in the Prospectus and the Registration Statement fairly present, on the basis stated therein, the information included therein. The statements of certain revenues and expenses of any of the properties or the financial statements of any businesses acquired by the Company or its subsidiaries or determined to be probable of acquisition by the Company or its subsidiaries, if any, included or incorporated by reference in the Registration Statement and the Prospectus present fairly in all material respects the information set forth therein and have been prepared, in all material respects, in accordance with the applicable financial statement requirements of Rule 3-14 of Regulation S-X with respect to real estate operations or Rule 3-05 of Regulation S-X with respect to businesses. All non-GAAP financial information included or incorporated by reference in the Registration Statement and the Prospectus complies with the requirements of Regulation G and Item 10 of Regulation S-K under the Securities Act; and, except as disclosed in the Prospectus, there are no material off-balance sheet arrangements (as defined in Regulation S-K under the Securities Act, Item 303(a)(4)(ii)) or any other relationships with unconsolidated entities or other persons, that may have a material current or, to the Company's knowledge, material future effect on the Company's consolidated financial condition, results of operations, liquidity, capital expenditures, capital resources or significant components of revenue or expenses. Any pro forma financial statements, including the notes thereto, included or incorporated by reference in the Prospectus and the Registration Statement include assumptions that provide a reasonable basis for presenting the significant effects directly attributable to the transactions and events described therein, the related pro forma adjustments give appropriate effect to those assumptions, and the pro forma adjustments reflect the proper application of those adjustments to the historical financial statement amounts in the pro forma financial statements included or incorporated by reference in the Prospectus and the Registration Statement. Any pro forma financial statements, including the notes thereto, included or incorporated by reference in the Prospectus and the Registration Statement, comply as to form in all material respects with the applicable accounting requirements of Regulation S-X under the Securities Act and the pro forma adjustments have been properly applied to the historical amounts in the compilation of those statements. No other financial statements or schedules are required to be included or incorporated by reference in the Registration Statement or the Prospectus. The interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement and the Prospectus fairly

presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(s) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or its or their property is pending or, to the knowledge of the Company, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of this Agreement or any Confirmation or the consummation of any of the transactions contemplated hereby or thereby or (ii) could reasonably be expected to have a Material Adverse Effect, except as set forth in or contemplated in the Prospectus (exclusive of any supplement thereto).

(t) Except as otherwise disclosed in the Prospectus, (i) the Company or its subsidiaries have fee simple title to or leasehold interest in, and have acquired title insurance with respect to, all of the properties described in the Prospectus as owned or leased by them and the improvements (exclusive of improvements owned by tenants) located thereon (the "**Properties**"), in each case, free and clear of all liens, encumbrances, claims, security interests, restrictions and defects, except such as are disclosed in the Prospectus or do not 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 Company and any subsidiary; (ii) neither the Company nor any of its subsidiaries knows of any condemnation which is threatened and which if consummated would reasonably be expected to have a Material Adverse Effect; (iii) each of the Properties complies with all applicable codes, laws and regulations (including without limitation, building and zoning codes, laws and regulations and laws relating to access to the Properties), except as disclosed in the Prospectus and except for such failures to comply that would not individually or in the aggregate reasonably be expected to materially affect the value of such Property or interfere in any material respect with the use made and proposed to be made of such Property by the Company or any subsidiary; and (iv) to the knowledge of the Company and the Operating Partnership, except as set forth in or contemplated in the Prospectus and except as would not individually or in the aggregate reasonably be expected to materially affect the value of such Property or interfere in any material respect with the use made and proposed to be made of such Property by the Company or any subsidiary, there are no uncured events of default, or events that with the giving of notice or passage of time, or both, would constitute an event of default by any tenant under any of the terms and provisions of any lease described in the "Properties" section of the Company's most recent Annual Report on Form 10-K.

(u) The Company and its subsidiaries own, possess, license or have other rights to use, on reasonable terms, all patents, patent applications, trade and service marks, trade and service mark registrations, trade names, copyrights, licenses, inventions, trade secrets, technology, know-how and other intellectual property (collectively, the "**Intellectual Property**") reasonably necessary for the conduct of the Company's and the Operating Partnership's business as now conducted or as proposed in the Prospectus to be conducted, except where the failure to own, possess, license or have other rights to use such Intellectual Property would not have a Material Adverse Effect. Except as set forth in the Prospectus: (i) to the Company's or the Operating Partnership's knowledge, there are no rights of third parties to any such Intellectual Property; (ii) to the Company's or the Operating Partnership's knowledge, there is no material infringement by third parties of any such Intellectual Property; (iii) there is no pending, or, to the Company's or the Operating Partnership's knowledge, threatened action, suit, proceeding or claim by others challenging the Company's rights in or to any such Intellectual Property, and the Company is unaware of any facts which would form a reasonable basis for any such claim; and (iv) there is no pending or, to the Company's or the Operating Partnership's knowledge, threatened action, suit, proceeding or claim by others that the Company or the Operating Partnership infringes or otherwise violates any patent, trademark, copyright, trade secret or other proprietary rights of others, and the Company is unaware of any other fact which would form a reasonable basis for any such claim.

(v) Neither the Company nor any subsidiary is in violation or default of (i) any provision of its charter, bylaws or other organizational or governing documents, (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject, or (iii) any statute, law, rule, regulation, judgment, order or decree of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or such subsidiary or any of its properties, as applicable, except under subsections (ii) or (iii) for any violation or default which would not have a Material Adverse Effect.

(w) Grant Thornton LLP, who has certified the financial statements and supporting schedules of the Company and its consolidated subsidiaries included or incorporated by reference in the Registration Statement and the Prospectus and delivered their reports with respect to the audited consolidated financial statements and schedules included or incorporated by reference in the Registration Statement and the Prospectus, are independent public accountants with respect to the Company within the meaning of the Securities Act and the applicable published rules and regulations thereunder.

(x) The Company and each of its subsidiaries has filed all foreign, federal, state and local tax returns that are required to be filed in a timely manner or has properly requested extensions thereof (except in any case in which the failure so to file would not reasonably be expected to result in a Material Adverse Effect) and has paid all taxes required to be paid by it and any other assessment, fine or penalty levied against it, to the extent that any of the foregoing is due and payable, except for any such assessment, fine or penalty that is currently being contested in good faith or as would not reasonably be expected to result in a Material Adverse Effect.

(y) No labor problem or dispute with the employees of the Company or any of its subsidiaries exists or is threatened or imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or its subsidiaries' principal suppliers, contractors or customers, that could be reasonably expected to have a Material Adverse Effect, except as set forth in or contemplated in the Prospectus (exclusive of any supplement thereto).

(z) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and fidelity or surety bonds insuring the Company or any of its subsidiaries or their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its subsidiaries are in compliance with the terms of such policies and instruments in all material respects; and there are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company nor any such subsidiary has been refused any insurance coverage sought or applied for; and neither the Company nor any such subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect, except as set forth in or contemplated in the Prospectus (exclusive of any supplement thereto).

(aa) No subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends or distributions to the Company, from making any other distribution on such subsidiary's capital stock or equity interests, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such

subsidiary's property or assets to the Company or any other subsidiary of the Company, except as described in or contemplated by the Prospectus (exclusive of any supplement thereto).

(ab) The Company and its subsidiaries possess all licenses, certificates, permits and other authorizations issued by all applicable authorities necessary to conduct their respective businesses, except where the failure to possess such license, certificate, permit or other authorization would not have a Material Adverse Effect, and neither the Company nor any such subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect, except as set forth in or contemplated in the Prospectus (exclusive of any supplement thereto).

(ac) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company and its subsidiaries' internal controls over financial reporting are effective and the Company and its subsidiaries are not aware of any material weakness in their internal controls over financial reporting.

(ad) The Company and its subsidiaries maintain "disclosure controls and procedures" (as such term is defined in Rule 13a-15(e) under the Exchange Act); such disclosure controls and procedures are effective.

(ae) Neither the Company nor the Operating Partnership has taken, directly or indirectly, any action designed to or that would constitute or that might reasonably be expected to cause or result in, under the Exchange Act or otherwise, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Shares.

(af) (i) The Company and its subsidiaries are in material compliance with any and all applicable Environmental Laws and have not received notice of any pending or threatened Environmental Action, (ii) the Company and its subsidiaries have received and are in material compliance with all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses, (iii) the Company and its subsidiaries have not received notice of any actual or potential liability under any Environmental Laws, except as would not, individually or in the aggregate, have a Material Adverse Effect and except as set forth in, or contemplated in, the Prospectus, (iv) neither the Company nor any of its subsidiaries has received notice from any Governmental Authority indicating that any Property owned, leased or controlled by the Company, the Operating Partnership or any subsidiary or any real property adjacent thereto has been or may be placed on any federal, state or local list as a result of the release of Hazardous Materials or violations of Environmental Law, (v) no Hazardous Materials have been used, manufactured, generated, sold, handled, treated, transported, stored (including within aboveground or underground storage tanks) or disposed of by the Company, the Operating Partnership or any subsidiary, except in material compliance with all applicable Environmental Laws, (vi) no Hazardous Materials have spilled, discharged, released, emitted, injected or leaked from, in, on, or migrated to or from any Property owned, leased or controlled by the Company, the Operating Partnership or any subsidiary, except where such spill, discharge, release, emission, injection or leak would not, individually or in the aggregate, have a Material Adverse Effect, and (vii) no Property which is owned, leased or controlled by the Company, the Operating Partnership or any subsidiary has been used for dry-cleaning purposes or is subject to any environmental lien. The Company has made available

copies of all reports, audits studies or analyses of any kind whatsoever in the possession, custody or control of the Company, the Operating Partnership or any subsidiary relating to Hazardous Materials at or in connection with any real property owned, leased or controlled by the Company or any Environmental Action affecting the Company or any subsidiary.

For purposes of the foregoing:

**“Environmental Action”** means any complaint, summons, citation, notice, directive, order, claim, litigation, third party investigation, judicial or administrative proceeding, judgment, letter or other communication from any Governmental Authority or any third party involving violations of Environmental Laws or releases, discharges, leaks of Hazardous Materials in, on, or migrating to or from the Properties.

**“Environmental Law”** means any applicable federal, state, or local statute, law, rule, regulation, ordinance, code, binding and enforceable guideline, binding and enforceable written policy or rule of common law now or hereafter in effect, or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment in each case, to the extent binding, relating to the environment, public health and safety, or Hazardous Materials, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act, 42 USC §9601 et seq. (**“CERCLA”**); the Resource Conservation and Recovery Act, 42 USC §6901 et seq. (**“RCRA”**); the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Clean Air Act, 42 USC §7401 et seq.; the Safe Drinking Water Act, 42 USC §300(f) et seq.; the Oil Pollution Act of 1990, 33 USC §2701 et seq.; the Emergency Planning and the Community Right-to-Know Act of 1986, 42 USC §11001 et seq.; the Hazardous Material Transportation Act, 49 USC §5101 et seq.; and the Occupational Safety and Health Act, 29 USC §651 et seq. (to the extent it regulates occupational exposure to Hazardous Materials); any state or local counterparts or equivalents, in each case as amended from time to time.

**“Governmental Authority”** means any federal, state, local or other governmental or administrative body, instrumentality, board, department, or agency or any court tribunal, administrative hearing body, arbitration panel, commission, or other similar dispute-resolving panel or body.

**“Hazardous Materials”** means (a) substances that are defined or listed, in, or otherwise classified pursuant to any applicable laws or regulations as “hazardous substances,” “hazardous materials,” “hazardous wastes,” “toxic substances,” “pollutants,” “contaminants,” or any other similar term intended to define, list, or classify a substance by reason of such substance’s ignitability, corrosivity, reactivity, carcinogenicity, reproductive toxicity, “TCLP toxic” or adverse effect on human health or the environment, (b) oil, petroleum, or petroleum derived substances, natural gas, natural gas liquids, synthetic gas, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal resources, (c) any flammable substances or explosives or any radioactive materials, (d) asbestos in any form, (e) polychlorinated biphenyls, (f) mold, mycotoxins or microbial matter (naturally occurring or otherwise), and (g) infectious waste. The term “Hazardous Materials” does not include those quantities of substances customarily present, stored, used and/or disposed of in typical residential households, if so present, stored, used or disposed of by the Company’s tenants.

(gg) No “prohibited transaction” as defined under Section 406 of the Employee Retirement Income Security Act of 1974, as amended (**“ERISA”**) or Section 4975 of the Internal Revenue Code of 1986, as amended (the **“Code”**) and not exempt under Section 408 of ERISA and the regulations and published interpretations thereunder has occurred or is reasonably expected to occur (including upon the execution and delivery of this Agreement and

any Confirmation) with respect to any “employee benefit plan” (as defined in Section 3(3) ERISA, each an “**Employee Benefit Plan**”)) maintained by the Company or its subsidiaries. Neither the Company nor any of its ERISA Affiliates maintains or contributes to any “multiemployer plan” as defined in Section 3(37) of ERISA or any multiple employer plan for which the Company or any ERISA Affiliate has incurred or could incur liability under Section 4063 or 4064 of ERISA and the Company does not have any obligations under any collective bargaining agreement with any union and no organization efforts are underway with respect to Company employees. Each Employee Benefit Plan maintained by the Company or any of its ERISA Affiliates which is intended to be qualified under Section 401(a) of the Code, has received a favorable determination or opinion letter from the Internal Revenue Service that such plan is so qualified, and, to the knowledge of the Company, nothing has occurred, whether by action or failure to act, that could reasonably be expected to cause the loss of such qualification. Neither the Company nor any of its ERISA Affiliates maintains or is required to contribute to an employee welfare plan which provides retiree or other post-employment welfare benefits or insurance coverage (other than “continuation coverage” (as defined in Section 602 of ERISA) or as otherwise required by applicable law). Each Employee Benefit Plan of the Company or its ERISA Affiliate that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, the minimum funding standard of Section 412 of the Code or Section 302 of ERISA, as applicable, has been satisfied (without taking into account any waiver thereof or extension of any amortization period) and is reasonably expected to be satisfied in the future (without taking into account any waiver thereof or extension of any amortization period). The fair market value of the assets of each Employee Benefit Plan that is an employee pension benefit plan within the meaning of ERISA Section 3(2) maintained by the Company or its ERISA Affiliate exceeds the present value of all benefits accrued under such Employee Benefit Plan (determined based on those assumptions used to fund such Plan). No “reportable event” (within the meaning of Section 4043(c) of ERISA) has occurred or is reasonably expected to occur that either has resulted, or could reasonably be expected to result, in material liability to the Company or its ERISA Affiliates. Neither the Company nor any ERISA Affiliate has incurred, nor reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation (“**PBGC**”), in the ordinary course and without default) in respect of an Employee Benefit Plan (including a “multiemployer plan”, within the meaning of Section 4001(a)(3) of ERISA). None of the Company, any of its subsidiaries or any of their Employee Benefit Plans is the subject of an audit or investigation by the Internal Revenue Service, the U.S. Department of Labor, the PBGC or any other federal or state governmental agency relating to any Employee Benefit Plan or is the subject of any lawsuit, arbitration, mediation or other claim relating to any Employee Benefit Plan (other than claims for benefits submitted in the ordinary course). For the purpose of this paragraph, an ERISA Affiliate means any member of the company’s controlled group as defined in Code Section 414(b), (c), (m) or (o).

(hh) There is and has been no failure on the part of the Company and any of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the “**Sarbanes-Oxley Act**”), including the establishment and maintenance of disclosure controls and procedures, Section 402 related to loans and Sections 302 and 906 related to certifications.

(ii) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that could be reasonably expected to result in a violation or a sanction for violation by such persons of the Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010, each as may be amended, or similar law of any other relevant jurisdiction, or the rules or regulations thereunder; and the Company and its subsidiaries have instituted and maintain policies and procedures to ensure compliance therewith. No part of the proceeds of the offering (or from the



settlement of any Confirmation) will be used, directly or indirectly, in violation of the Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010, each as may be amended, or similar law of any other relevant jurisdiction, or the rules or regulations thereunder.

(jj) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(kk) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries (i) is, or is controlled or 50% or more owned in the aggregate by or is acting on behalf of, one or more individuals or entities that are currently the subject of any sanctions administered or enforced by the United States (including any administered or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State or the Bureau of Industry and Security of the U.S. Department of Commerce), the United Nations Security Council, the European Union, a member state of the European Union (including sanctions administered or enforced by Her Majesty’s Treasury of the United Kingdom) or other relevant sanctions authority (collectively, “**Sanctions**” and such persons, “**Sanctioned Persons**” and each such person, a “**Sanctioned Person**”), (ii) is located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions that broadly prohibit dealings with that country or territory (collectively, “**Sanctioned Countries**” and each, a “**Sanctioned Country**”) or (iii) will, directly or indirectly, use the proceeds of this offering or from the settlement of any Confirmation, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other individual or entity in any manner that would result in a violation of any Sanctions by, or could result in the imposition of Sanctions against, any individual or entity (including any individual or entity participating in the offering, whether as underwriter, advisor, investor or otherwise).

(ll) Neither the Company nor any of its subsidiaries has engaged in any dealings or transactions with or for the benefit of a Sanctioned Person, or with or in a Sanctioned Country, in the preceding 3 years, nor does the Company or any of its subsidiaries have any plans to engage in dealings or transactions with or for the benefit of a Sanctioned Person, or with or in a Sanctioned Country.

(mm) Except as set forth in the Prospectus, the Company and its subsidiaries have good and marketable title to all personal property owned by them, free and clear of all encumbrances and defects; and all personal property held under lease by the Company or any subsidiary is held by it under valid, subsisting and enforceable leases, in each case, with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property by the Company or the subsidiary.

(nn) No relationship, direct or indirect, exists between or among the Company on the one hand, and the directors, executive officers, or stockholders of the Company on the other hand, which is required to be described in the Registration Statement and the Prospectus and which is not so described.

(oo) Commencing with its taxable year ended December 31, 1994, the Company has been organized and has operated in conformity with the requirements for qualification and taxation as a real estate investment trust (a “**REIT**”) under the Code and all

applicable regulations under the Code, and its proposed method of operation will enable it to meet the requirements for qualification and taxation as a REIT under the Code and all applicable regulations under the Code for its taxable year ending December 31, 2021 and thereafter; all statements in the Registration Statement, the Base Prospectus and the Prospectus Supplement regarding the Company's qualification and taxation as a REIT are correct in all material respects. The Company intends to continue to qualify as a REIT under the Code and all applicable regulations under the Code for all subsequent years, and the Company, after reasonable inquiry and diligence, does not know of any event that would reasonably be expected to cause the Company to fail to qualify as a REIT at any time. Each of the Company's corporate subsidiaries that has elected, together with the Company, to be a taxable REIT subsidiary is in compliance with all requirements applicable to a "taxable REIT subsidiary" within the meaning of Section 856(l) of the Code and all applicable regulations under the Code, and the Company, after reasonable inquiry and diligence, is not aware of any fact that would negatively impact such qualification. Each of the Company's corporate subsidiaries (or subsidiaries taxable as corporations for U.S. federal income tax purposes) that is not a "taxable REIT subsidiary" is a "qualified REIT subsidiary" within the meaning of Section 856(i) of the Code and all applicable regulations under the Code.

(pp) The Operating Partnership is and has been at all times classified as a partnership, and not as an association or partnership taxable as a corporation, for federal income tax purposes and the Company does not know of any event that would cause or would reasonably be expected to cause the Operating Partnership to cease being classified as a partnership for federal income tax purposes and the Company does not know of any event that would cause or would reasonably be expected to cause the Operating Partnership to be treated as an association or partnership taxable as a corporation for federal income tax purposes.

(qq) There are no transfer taxes or other similar fees or charges under Federal law or the laws of any state, or any political subdivision thereof, required to be paid in connection with the execution and delivery of this Agreement or any Confirmation or the issuance by the Company or sale by the Company of the Shares or the Confirmation Shares.

(rr) The Company, the Operating Partnership and each of their subsidiaries (including any predecessor entities) have not distributed, and prior to the distribution of the Shares, will not distribute, any offering material in connection with the offering or sale of the Shares other than the Registration Statement, the Prospectus or any other materials, if any, permitted by the Securities Act.

(ss) The statistical and market-related data included in the Prospectus and the Registration Statement are based on or derived from sources that the Company and the Operating Partnership believe to be reliable and accurate.

(tt) Except as described in each of the Registration Statement and the Prospectus, with respect to stock options (the "**Stock Options**") and all other awards ("**Other Awards**") granted pursuant to any equity incentive plan of the Company and its subsidiaries within the past seven (7) years, (i) each Stock Option designated by the Company at the time of grant as an "incentive stock option" under Section 422 of the Code, so qualifies, (ii) each grant of a Stock Option and each grant of an Other Award was duly authorized no later than the date on which the grant of such Stock Option or Other Award, as the case may be, was by its terms to be effective (the "**Grant Date**") by all necessary corporate action, including, as applicable, approval by the board of directors of the Company (or a duly constituted and authorized committee thereof) and any required stockholder approval by the necessary number of votes or written consents, and the award agreement governing such grant (if any) was duly executed and delivered by each party thereto, (iii) each such grant of a Stock Option or an Other Award was made in accordance with the terms of such equity incentive plan, the Exchange Act and all other

applicable laws and regulatory rules or requirements, including the rules of the NYSE and any other exchange on which Company securities are traded, (iv) the per share exercise price of each Stock Option or Other Award in the form of a stock appreciation right or similar award was equal to or greater than the fair market value of a share of Common Stock on the applicable Grant Date, (v) at the time of grant and at all times thereafter, all Stock Options and Other Awards qualified for an exemption from Sections 162(m) and 409A of the Code, (vi) each grant of a Stock Option and each grant of an Other Award was made in material compliance with all applicable laws (including but not limited to applicable securities and tax laws), the recipients and holders of all Stock Options and Other Awards have received timely and complete information, in the form of a prospectus when required, regarding the terms conditions, securities laws, and tax consequences relating to their Stock Options and Other Awards as the case may be, and (vii) each such grant of a Stock Option or an Other Award was properly accounted for in accordance with GAAP in the financial statements (including the related notes) of the Company and disclosed in the Company's filings with the Commission in accordance with the Exchange Act and all other applicable laws. The Company has not knowingly granted, and there is no and has been no policy or practice of the Company of granting, Stock Options or Other Awards in the form of stock appreciation rights or similar awards prior to, or otherwise coordinating the grant of such awards with, the release or other public announcement of material information regarding the Company or its subsidiaries or their results of operations or prospects.

(uu) Other than the subsidiaries of the Company listed in Exhibit 21.1 to the Company's most recent Annual Report on Form 10-K and the subsidiaries organized on or after February 18, 2021 and identified on Schedule 6 hereto, the Company, directly or indirectly, owns no capital stock or other equity or ownership or proprietary interest in any corporation, partnership, limited liability company, association, trust or other entity that has operations or owns any assets or has any material liabilities.

(vv) The documents incorporated by reference in the Registration Statement and in the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and were filed on a timely basis with the Commission, and none of such documents contained an untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; any further documents so filed and incorporated by reference in the Prospectus, when such documents are filed with the Commission, will conform in all material respects to the requirements of the Exchange Act, and will not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(ww) All dividends made by the Company to holders of Common Stock have been made in compliance with the applicable rules and regulations of the Maryland General Corporation Law (the "MGCL"). All dividends made by the Company to holders of the Company's preferred stock have been made in accordance with the articles supplementary governing such preferred stock and have been made in compliance with the applicable rules and regulations of the MGCL. All distributions made by the Operating Partnership to holders of Units have been made in compliance with the applicable rules and regulations of the Michigan Revised Uniform Limited Partnership Act.

(xx) The Company has no "significant subsidiaries" (as such term is defined under Rule 1-02(w) subsections 1 or 2 of Regulation S-X under the Securities Act) other than as set forth on Schedule 7 hereto.

(yy) The Common Stock is an “actively-traded security” excepted from the requirements of Rule 101 of Regulation M under the Exchange Act by subsection (c)(1) of such rule.

(zz) No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) included or incorporated by reference in the Registration Statement or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(aaa) The Company (i) has filed all material required to be filed pursuant to Sections 13, 14 or 15(d) of the Exchange Act for a period of at least 36 calendar months immediately preceding (A) the filing of the Registration Statement with the Commission and (B) the date of this Agreement; and (ii) has filed in a timely manner all reports required to be filed during the 12 calendar months and any portion of a month immediately preceding (A) the filing of the Registration Statement with the Commission and (B) the date of this Agreement.

(bbb) Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Company and each of its subsidiaries’ information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, “**IT Systems**”) are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and each of its subsidiaries as currently conducted, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and each of its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data (“**Personal Data**”)) used in connection with their businesses, and there have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same. Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Company and each of its subsidiaries are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

Any certificate signed by any officer of the Company or the Operating Partnership and delivered to any Sales Agent, any Forward Purchaser or their counsel in connection with the offering of the Shares or any Confirmation Shares shall be deemed a representation and warranty by the Company and the Operating Partnership, as to matters covered thereby, to such Sales Agent and such Forward Purchaser. The Company and the Operating Partnership acknowledge that the Sales Agents and the Forward Purchasers and, for purposes of the opinions to be delivered pursuant to Section 4 hereof, counsel to the Company and counsel to the Sales Agents and Forward Purchasers, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

4. Covenants of the Company. The Company and the Operating Partnership, jointly and severally, covenant and agree with each Sales Agent and each Forward Purchaser that:

(a) Amendments and Supplements to the Registration Statement, the Prospectus and any Free Writing Prospectus. The Company shall not, during such period as the Prospectus is required by law to be delivered (whether physically, deemed to be delivered

pursuant to Rule 153 or through compliance with Rule 172, or any similar rule of under the Securities Act) (the “**Prospectus Delivery Period**”) in connection with sales of the Shares, amend or supplement the Registration Statement, the Prospectus or any Free Writing Prospectus (other than an amendment or supplement thereto providing solely for the determination of the terms of an offering of securities unless related to an offering of Shares), unless a copy of such amendment or supplement thereto shall first have been submitted to the Sales Agents and the Forward Purchasers within a reasonable period of time prior to the filing or, if no filing is required, the use thereof and the Sales Agents and the Forward Purchasers shall not have reasonably objected thereto (provided, however, that the failure of the Sales Agents and the Forward Purchasers to make such objection shall not relieve the Company of any obligation or liability hereunder, or affect the Sales Agents’ and Forward Purchasers’ right to rely on the representations and warranties made by the Company in this Agreement).

(b) Material Misstatements or Omissions and Other Compliance with Applicable Law. If, after the date hereof and during the Prospectus Delivery Period, any event or development shall occur or condition shall exist as a result of which the Prospectus or any Free Writing Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it shall be necessary to amend or supplement the Prospectus or any Free Writing Prospectus, or to file any document in order to comply with the Securities Act or the Exchange Act, in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if in the opinion of the Administrative Sales Agents it is otherwise necessary to amend or supplement the Registration Statement, the Prospectus or any Free Writing Prospectus or to file any document in order to comply with the Securities Act or the Exchange Act, including, without limitation, in connection with the delivery of the Prospectus, the Company shall promptly (i) notify the Sales Agents and the Forward Purchasers of any such event, development or condition (and confirm such notice in writing) and (ii)(x) prepare (subject to subsections (a) and (e) of this Section 7) an amendment or supplement to the Prospectus or such Free Writing Prospectus, necessary in order to make the statements in the Prospectus or such Free Writing Prospectus as so amended or supplemented, in the light of the circumstances under which they were made, not misleading or so that the Registration Statement, the Prospectus or such Free Writing Prospectus, as amended or supplemented, will comply with the Securities Act or the Exchange Act, (y) file with the Commission such amendment, supplement or document in order to comply with the Securities Act or the Exchange Act (and use its best efforts to have such amendment or supplement to be declared effective as soon as possible) and (z) furnish at its own expense to the Sales Agents and the Forward Purchasers as many copies as the Sales Agents and the Forward Purchasers may reasonably request of such amendment, supplement or document.

(c) Notifications to the Sales Agents and the Forward Purchasers. The Company shall notify the Sales Agents and the Forward Purchasers promptly, and shall confirm such notice in writing, (i) when any post-effective amendment to the Registration Statement becomes effective, (ii) of any request by the Commission for an amendment or supplement to the Registration Statement, the Prospectus or any Free Writing Prospectus or for additional information, (iii) of the commencement by the Commission or by any state securities commission of any proceedings for the suspension of the qualification of any of the Shares for offering or sale in any jurisdiction or of the initiation, or the threatening, of any proceeding for that purpose, including, without limitation, the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose or the threat thereof, (iv) of the happening of any event during the Prospectus Delivery Period that in the judgment of the Company makes any material statement made in the Registration Statement or the Prospectus untrue or that requires the making of any amendment or supplement to the Prospectus or any Free Writing Prospectus in order to make the material statements therein, in light of the circumstances under which they were made, not misleading and

(v) of receipt by the Company or any representative of the Company of any other communication from the Commission relating to the Company, the Registration Statement, the Prospectus, or any Free Writing Prospectus. If at any time the Commission shall issue any such stop order suspending the effectiveness of the Registration Statement, the Company shall use its best efforts to obtain the withdrawal of such order at the earliest possible moment. The Company shall use its commercially reasonable efforts to comply with the provisions of and make all requisite filings with the Commission pursuant to Rules 424(b), 430B, 430C and 462(b) under the Securities Act and to notify the Sales Agents and the Forward Purchasers promptly of all such filings.

(d) Prospectus. The Company shall furnish to the Sales Agents and the Forward Purchasers, without charge, as many copies of the Prospectus and any amendment or supplement thereto as the Sales Agents or the Forward Purchasers may reasonably request via electronic mail in “.pdf” format and, at the Sales Agents’ or the Forward Purchasers’ request, to furnish copies of the Prospectus to the NYSE and each other exchange or market on which sales of the Shares were or are expected to be effected, in each case, as may be required by the rules or regulations of the NYSE or such other exchange or market. The Company consents to the use of the Prospectus and any amendment or supplement thereto by the Sales Agents and the Forward Purchaser during the Prospectus Delivery Period. If the Sales Agents are required to deliver (whether physically, deemed to be delivered pursuant to Rule 153 or through compliance with Rule 172 under the Securities Act or any similar rule), in connection with the sale of the Shares, a prospectus after the nine-month period referred to in Section 10(a)(3) of the Securities Act, or after the time a post-effective amendment to the Registration Statement is required pursuant to Item 512(a) of Regulation S-K under the Securities Act, the Company will prepare, at its expense, such amendment or amendments to the Registration Statement and the Prospectus as may be necessary to permit compliance with the requirements of Section 10(a)(3) of the Securities Act or Item 512(a) of Regulation S-K under the Securities Act, as the case may be.

(e) Free Writing Prospectuses. Other than a Free Writing Prospectus approved in advance in writing by the Company and the Administrative Sales Agents, neither the Sales Agents nor the Company (including its agents and representatives, other than the Sales Agents in their capacity as such) will, directly or indirectly, make, use, prepare, authorize, approve or refer to any free writing prospectus relating to the Shares to be sold by the Sales Agents hereunder. The Company represents and agrees that (i) it has complied and shall comply, as the case may be, with the requirements of Rules 164 and 433 under the Securities Act applicable to any Free Writing Prospectus, including, without limitation, in respect of timely filing with the Commission, legending and record keeping. The Company agrees not to take any action that would result in the Sales Agents or the Company being required to file pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of the Sales Agents that the Sales Agents otherwise would not have been required to file thereunder.

(f) Registration Statement Renewal Deadline. If, immediately prior to the third anniversary of the initial effective date of the Registration Statement relating to the Shares (the “**Renewal Deadline**”), any of the Shares remain unsold by the Sales Agents, the Company shall prior to the Renewal Deadline (i) file, if it has not already done so (subject to subsection (a) of this Section 4), a new shelf registration statement relating to the Shares, in a form reasonably satisfactory to the Administrative Sales Agents, (ii) use its commercially reasonable efforts to cause such registration statement to be declared effective within 60 days after the Renewal Deadline (if the Company is not then eligible to file an automatic shelf registration statement) and (iii) take all other action necessary or appropriate to permit the public offering and sale of the Shares to continue as contemplated herein and in the expired registration statement relating to the Shares. References herein to the Registration Statement relating to the Shares shall include such new shelf registration statement.

(g) Notice of Inability to Use Automatic Shelf Registration Statement Form. If, at any time when the Shares remain unsold by the Sales Agents, the Company receives from the Commission a notice pursuant to Rule 401(g)(2) of the Securities Act or otherwise ceases to be eligible to use the automatic shelf registration statement form, the Company shall (i) promptly notify the Sales Agents and the Forward Purchasers, (ii) promptly file a new registration statement or post-effective amendment to the existing Registration Statement on the proper form relating to the Shares, in a form reasonably satisfactory to the Administrative Sales Agents and subject to subsection (a) of this Section 4, (iii) use its commercially reasonable efforts to cause such registration statement or post-effective amendment to be declared effective as soon as practicable, and (iv) promptly notify the Sales Agents and the Forward Purchasers upon such effectiveness. The Company shall take all other action necessary or appropriate to permit the public offering and sale of the Shares to continue as contemplated herein and in the Registration Statement that was the subject of the notice pursuant to Rule 401(g)(2) of the Securities Act or for which the Company has otherwise become ineligible to use. References herein to the Registration Statement relating to the Shares shall include such new registration statement or post-effective amendment, as the case may be.

(h) Filing Fee. The Company agrees to pay the required Commission filing fee related to the Shares within the time required by Rule 456(d)(1) under the Securities Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r).

(i) Compliance with Blue Sky Laws. The Company shall cooperate with the Sales Agents and counsel therefor in connection with the registration or qualification (or the obtaining of exemptions therefrom) of the Shares for the offering and sale under the securities or Blue Sky laws of such jurisdictions as the Sales Agents may request, including, without limitation, the provinces and territories of Canada and other jurisdictions outside the United States, and to continue such registration or qualification in effect so long as necessary under such laws for the distribution of the Shares; *provided, however*, that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject (except service of process with respect to the offering and sale of the Shares).

(j) Availability of Earnings Statements. The Company shall make generally available to holders of its securities and the Sales Agents as soon as may be practicable but in no event later than the last day of the fifteenth full calendar month following the end of the Company's current fiscal quarter, an earnings statement covering a 12-month period that satisfies the provisions of Section 11(a) and Rule 158 of the Securities Act.

(k) Expenses. The Company agrees with each Sales Agent and each Forward Purchaser, whether or not the transactions contemplated hereunder and under any Confirmation are consummated or this Agreement or any Confirmation is terminated, to pay all costs, fees and expenses incurred in connection with the performance of the Company's obligations hereunder and in connection with the transactions contemplated hereby and under any Confirmation, including, without limitation: (i) the fees, disbursements and expenses of the Company's counsel and the Company's accountants in connection with the registration of the Shares under the Securities Act and all other expenses in connection with the preparation, printing, reproduction and filings of the Registration Statement, the Prospectus and any Free Writing Prospectus and the mailing and delivering of copies thereof to the Sales Agents and the Forward Purchasers, (ii) the cost of printing or producing this Agreement, the closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Shares and any Confirmation Shares, (iii) all expenses in connection with the qualification of the Shares and any Confirmation Shares for offering and sale under state securities laws as provided in Section 4(i) hereof, (iv) all fees and expenses in connection with listing the Shares and any Confirmation Shares on the NYSE, and any stock or transfer taxes and stamp or similar

duties on the issuance and listing of the Shares and any Confirmation Shares, (v) the filing fees incident to, and the reasonable fees and disbursements of counsel for the Sales Agents and the Forward Purchasers in connection with determining their compliance with the rules and regulations of FINRA related to their participation in the transactions contemplated hereunder, (vi) the cost of preparing stock certificates, (vii) the cost and charges of any transfer agent or registrar, (viii) all other costs and expenses incident to the performance of the Company's obligations hereunder which are not otherwise specifically provided for in this Section and (ix) if Shares having an aggregate offering price of \$50,000,000 or more have not been offered and sold under this Agreement collectively by the thirty-six-month anniversary of this Agreement (or such earlier date on which the Company terminates this Agreement), the Company shall reimburse the Sales Agents and the Forward Purchasers for up to \$200,000 of their reasonable out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Sales Agents and the Forward Purchasers incurred by the Sales Agents and the Forward Purchasers in connection with the transactions contemplated by this Agreement and any Confirmation.

(l) No Stabilization or Manipulation. Neither the Company nor the Operating Partnership shall at any time, directly or indirectly, take any action intended to cause or result in, or which might reasonably be expected to cause or result in, or which will constitute, stabilization or manipulation, under the Securities Act or otherwise, of the price of the shares of Common Stock to facilitate the sale or resale of any of the Shares.

(m) Use of Proceeds. The Company shall apply the net proceeds from the offering and sale of the Shares pursuant to this Agreement, any Terms Agreement and upon settlement of any Confirmation in the manner set forth in the Prospectus under "Use of Proceeds."

(n) Lock-Up Agreement. At any time that the Company has instructed a Sales Agent to sell Shares pursuant to Section 2(a)(i) hereof (a) pursuant to a Regular Placement Notice, but such instructions have not been fulfilled, settled or cancelled, or (b) pursuant to a Forward Placement Notice, but the Company and the Forward Purchaser have not entered into a Supplemental Confirmation, or such instruction has not been cancelled, the Company shall not sell, offer to sell, contract or agree to sell, hypothecate, pledge, grant any option to sell or otherwise dispose of or agree to dispose of, directly or indirectly, any shares of Common Stock or securities convertible into or exchangeable or exercisable for the Common Stock or warrants or other rights to purchase Common Stock or any other securities of the Company that are substantially similar to the Common Stock or permit the registration under the Act of the offer or sale thereunder, in each case without giving the applicable Sales Agent and, if applicable, the relevant Forward Purchaser at least one Business Day's prior written notice specifying the nature of the proposed sale and the date of such proposed sale. Notwithstanding the foregoing, the Company and/or the Operating Partnership may (i) register the offering and sale of the Shares through the Sales Agents pursuant to this Agreement, (ii) issue shares of Common Stock upon the exercise of outstanding options, or other outstanding securities, as described in the Company's reports filed with the Commission under the Exchange Act, or upon the redemption or exchange of outstanding Units, in accordance with the Operating Partnership Agreement, (iii) issue securities under the Company's equity incentive plans described in the Company's reports filed with the Commission under the Exchange Act, (iv) issue shares of Common Stock pursuant to any dividend reinvestment plan or stock purchase plan of the Company, (v) issue securities, including Units, in connection with the acquisition of property, (vi) issue, offer or sell shares of Common Stock and take other actions under the Forward Sales Agreements, dated November 15, 2021 and November 16, 2021, between the Company and Citibank N.A., (vii) register the resale of shares of Common Stock by holders thereof pursuant to agreements or arrangements disclosed by the Company in its filings with the Commission prior to such instruction, and (viii) issue up to 1,712,709 shares of Common Stock pursuant to the settlement of outstanding forward sale transactions under master confirmation letter agreements and supplemental confirmation letter



agreements entered into in connection with the At the Market Sales Agreement dated June 4, 2021 among the Company, the Partnership and the sales agents and forward purchasers that are party thereto. If notice of a proposed transaction is provided by the Company pursuant to this Section 4(n), the Sales Agents and the Forward Purchasers may suspend activity of the transactions contemplated by this Agreement or any Confirmation for such period of time as may be requested by the Company or as may be deemed appropriate by such Sales Agents or the Forward Purchasers.

(o) Stock Exchange Listing. The Company shall use its best efforts to cause the Shares and any Confirmation Shares to be listed on the NYSE and to maintain such listing.

(p) Additional Notices. The Company shall notify the Sales Agents immediately after it shall have received notice or obtained knowledge of any information or fact that would alter or affect any opinion, certificate, letter or any other document provided to the Sales Agents pursuant to Section 5 below.

(q) Representation Date Certificates. Upon commencement of the offering of the Shares under this Agreement (and upon the recommencement of the offering of the Shares under this Agreement following the termination of a suspension of sales hereunder), and each time thereafter that (i) the Registration Statement or the Prospectus is amended or supplemented (other than a prospectus supplement relating solely to the offering of securities pursuant to the Registration Statement other than the Shares), (ii) there is filed with the Commission any document incorporated by reference into the Registration Statement or the Prospectus (other than a Current Report on Form 8-K, unless the Administrative Sales Agents shall otherwise reasonably request), or (iii) otherwise as the Administrative Sales Agents may reasonably request (such commencement date, any such recommencement date, if applicable, and each such date referred to in clauses (i), (ii) and (iii) above, a “**Representation Date**”), to furnish or cause to be furnished to each Sales Agent and each Forward Purchaser forthwith a certificate dated and delivered within three Trading Days of such Representation Date, in form reasonably satisfactory to the Administrative Sales Agents, to the effect that the statements contained in the certificate referred to in Section 5(c) of this Agreement are true and correct at the time of such commencement, recommencement, amendment, supplement or filing, as the case may be, as though made at and as of such time and modified as necessary to relate to the Registration Statement and the Prospectus as amended and supplemented to the time of delivery of such certificate. The requirement to provide a certificate under this Section 4(q) may be waived, at the Administrative Sales Agents' discretion, for any Representation Date occurring at a time at which no Placement Notice is pending. However, if the Company subsequently decides to sell Shares following a Representation Date when the Company relied on such waiver and did not provide the Sales Agents and the Forward Purchasers with a certificate under this Section 4(q), then before the Company delivers the Placement Notice or the Sales Agents sell any Shares, the Company shall provide the Sales Agents and the Forward Purchasers with a certificate, in the form set forth in Section 5(c), dated the date of the Placement Notice (such date shall also constitute a Representation Date for purposes of this Agreement). For the purposes hereof, “**Trading Day**” means any day on which shares of Common Stock are purchased and sold on the principal market on which such shares are listed or quoted.

(r) Company Counsel Legal Opinions. On or prior to the date that the first Shares are sold pursuant to the terms of this Agreement and within three Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate under Section 4(q) for which no waiver is applicable, the Company shall cause to be furnished to the Sales Agents and the Forward Purchasers, dated as of such date and addressed to the Sales Agents and the Forward Purchasers, in form and substance reasonably satisfactory to the Sales Agents and the Forward Purchasers, the written opinions of Jaffe, Raitt, Heuer & Weiss, P.C., counsel for the Company, Baker, Donelson, Bearman, Caldwell & Berkowitz, a Professional

Corporation, the Company's special Maryland counsel, and Tuan Olona, LLP, the Company's special New York counsel, substantially similar to the forms set forth in Exhibit A, Exhibit B and Exhibit C hereto, respectively, but modified as necessary to relate to the Registration Statement and the Prospectus as amended and supplemented to the time of delivery of such opinions. In lieu of delivering such an opinion for dates subsequent to the commencement of the offering of the Shares under this Agreement each such counsel may furnish the Sales Agents and the Forward Purchasers with a letter (a "**Reliance Letter**") to the effect that the Sales Agents and the Forward Purchaser may rely on the prior opinions delivered under this Section 4(r) to the same extent as if it were dated the date of such letter (except that statements in such prior opinions shall be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented as of such subsequent date).

(s) Comfort Letters. On or prior to the date that the first Shares are sold pursuant to the terms of this Agreement (and upon the recommencement of the offering of the Shares under this Agreement following the termination of a suspension of sales hereunder) and within three Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate under Section 4(q) for which no waiver is applicable, the Company shall cause its independent accountants (and any other independent accountants whose report is included in the Registration Statement or the Prospectus, collectively, the "**Accountants**") to deliver to the Sales Agents and the Forward Purchasers letters (the "**Comfort Letters**"), dated the date the Comfort Letter is delivered, in form and substance reasonably satisfactory to the Administrative Sales Agents, as described in Section 5(f).

(t) Due Diligence. The Company and the Operating Partnership will cooperate with any reasonable due diligence review conducted by the Sales Agents and the Forward Purchaser or their agents in connection with the transactions contemplated hereby, including, without limitation, providing information and making available documents and senior officers, during regular business hours and at the Company's principal offices, as the Sales Agents or the Forward Purchasers may reasonably request. The Company shall comply with any due diligence request or call reasonably requested by the Sales Agents or the Forward Purchasers.

(u) Reservation of the Shares. The Company shall reserve and keep available at all times, free of preemptive rights, a number of shares of Common Stock equal to one and a half times the number of Forward Hedge Shares for each Confirmation (as adjusted for stock splits and similar events pursuant to the relevant Confirmation) for the purpose of enabling the Company to satisfy its obligations under each applicable Confirmation.

(v) Trading. The Company hereby consents to the Sales Agents and the Forward Purchasers trading in the Common Stock for their own accounts and for the accounts of their clients at the same time as sales of the Shares pursuant to this Agreement.

(w) Deemed Representations and Warranties. The Company hereby agrees that each acceptance by it of an offer to purchase Shares hereunder shall be deemed to be (i) an affirmation to the Sales Agents and the Forward Purchasers that the representations and warranties of the Company and the Operating Partnership contained in or made pursuant to this Agreement and any Confirmation are true and correct as of the date of such acceptance as though made at and as of such date and (ii) an undertaking that such representations and warranties will be true and correct as of the Applicable Time for the Shares relating to such acceptance as though made at and as of each of such dates (except that such representations and warranties shall be deemed to relate to the Registration Statement and the Prospectus as amended and supplemented to the date of such acceptance, such Applicable Time).

(x) Board Authorization. To ensure that prior to instructing the Sales Agents to sell Shares the Company shall have obtained all necessary corporate authority for the offer and sale of such Shares and any Confirmation Shares.

(y) Offer to Refuse to Purchase. If to the knowledge of the Company any condition set forth in Section 5(a) of this Agreement shall not have been satisfied on the applicable Settlement Date, the Company shall offer to any person who has agreed to purchase Shares from the Company as the result of an offer to purchase solicited by the Sales Agents the right to refuse to purchase and pay for such Shares.

(z) Exchange Act Reports. The Company shall (i) timely file all reports and any definitive proxy or information statements required to be filed by the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for the duration of the Prospectus Delivery Period and will use its commercially reasonable efforts to comply with all requirements imposed upon it by the Securities Act and the Exchange Act as from time to time in force, so far as necessary to permit the continuance of sales of, or dealings in, the Shares as contemplated by the provisions hereof and the Prospectus and (ii) disclose in its quarterly reports on Form 10-Q and in its annual report on Form 10-K a summary detailing, for the relevant reporting period, the number of Shares sold through or to the Sales Agents under this Agreement, the net proceeds received by the Company from such sales and the compensation paid by the Company to the Sales Agents with respect to such sales. In lieu of compliance with the requirement set forth in clause (ii) of the immediately preceding sentence, the Company may prepare a prospectus supplement (each, an “**Interim Prospectus Supplement**”) with such summary information and, at least once a quarter and subject to subsection (a) of this Section 4, file such Interim Prospectus Supplement pursuant to Rule 424(b) under the Securities Act (and within the time periods required by the Securities Act).

(aa) Compliance with Laws. The Company, the Operating Partnership and each of their subsidiaries shall maintain, or cause to be maintained, all material environmental permits, licenses and other authorizations required by federal, state and local law in order to conduct their businesses as described in the Prospectus, and the Company and each of its subsidiaries shall conduct their businesses, or cause their businesses to be conducted, in substantial compliance with such permits, licenses and authorizations and with applicable environmental laws, except where the failure to maintain or be in compliance with such permits, licenses and authorizations could not reasonably be expected to have a Material Adverse Effect.

(bb) REIT Treatment. The Company will use its best efforts to continue to meet the requirements to qualify as a REIT under the Code for so long as the Company's Board of Directors deems such qualification to be in the best interests of the Company's stockholders. The Operating Partnership will use its best efforts to continue to meet the requirements to qualify as a partnership under the Code for so long as the Company's Board of Directors deems such qualification to be in the best interests of the Company's stockholders.

5. Conditions to the Sales Agents' and Forward Purchasers' Obligations. The obligations of any Sales Agents or Forward Purchasers hereunder will be subject to the continuing accuracy and completeness of the representations and warranties made by the Company and the Operating Partnership herein, to the due performance by the Company and the Operating Partnership of their respective obligations hereunder, to the completion by the Sales Agents and the Forward Purchasers of a due diligence review satisfactory to the Sales Agents and the Forward Purchasers in their reasonable judgment, and to the continuing satisfaction of the following additional conditions:

(a) No Stop Orders, Requests for Information and No Amendments. (i) The Registration Statement shall be effective and shall be available for (a) all sales of Shares issued

pursuant to all prior Placement Notices and (b) the sale of all Shares contemplated to be issued by any Placement Notice, (ii) no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall be pending or are, to the best knowledge of the Company, threatened by the Commission, and the Company shall not have received from the Commission any notice pursuant to Rule 401(g)(2) of the Securities Act objecting to use of the automatic shelf registration statement form, (iii) no order suspending the qualification or registration of the Shares under the securities or Blue Sky laws of any jurisdiction shall be in effect and no proceeding for such purpose shall be pending before or threatened or contemplated by the authorities of any such jurisdiction, (iv) any request for additional information on the part of the staff of the Commission, the NYSE, FINRA, or any such authorities shall have been complied with to the satisfaction of the staff of the Commission or such authorities, (v) the occurrence of any event that makes any statement made in the Registration Statement or the Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, related Prospectus or such documents so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, that in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and (vi) after the date hereof no amendment or supplement to the Registration Statement or the Prospectus shall have been filed unless a copy thereof was first submitted to the Sales Agents and the Forward Purchasers and the Administrative Sales Agents did not reasonably object thereto.

(b) No Material Adverse Changes. Except as contemplated in the Prospectus, or disclosed in the Company's reports filed with the Commission, there shall not have been any material adverse change, on a consolidated basis, in the authorized shares of capital stock of the Company or any Material Adverse Effect, or any development that could reasonably be expected to cause a Material Adverse Effect, or any downgrading in or withdrawal of any rating assigned to any of the Company's or the Operating Partnership's securities.

(c) Officers' Certificates. The Sales Agents and the Forward Purchasers shall have received, on each Representation Date, one or more accurate certificates, dated such date and signed by an executive officer of the Company, in form and substance satisfactory to the Administrative Sales Agents, to the effect set forth in clauses (a) and (b) above and to the effect that:

(i) each signer of such certificate has carefully examined the Registration Statement, the Prospectus (including any documents filed under the Exchange Act and deemed to be incorporated by reference into the Prospectus) and each Free Writing Prospectus, if any;

(ii) as of such date and as of each sale of Shares subsequent to the immediately preceding Representation Date, if any, neither the Registration Statement, the Prospectus nor any Free Writing Prospectus contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(iii) each of the representations and warranties of the Company and the Operating Partnership contained in this Agreement and in any Confirmation, as applicable, are, as of such date and each sale of Shares subsequent to the immediately preceding Representation Date, if any, true and correct; and

(iv) each of the covenants and agreements required herein and in any Confirmation, as applicable, to be performed by the Company on or prior to such date has been duly, timely and fully performed and each condition herein required to be complied with by the Company on or prior to such date has been duly, timely and fully complied with.

(d) Opinions of Counsel to the Company. The Sales Agents and the Forward Purchasers shall have received the opinions of counsel required to be delivered pursuant to Section 4(r) hereof on or before the date on which such delivery of such opinion is required pursuant to Section 4(r) hereof.

(e) Opinion of Counsel to the Sales Agents and the Forward Purchasers. The Sales Agents and the Forward Purchasers shall have received, on or prior to the date that the first Shares are sold pursuant to the terms of this Agreement (and upon the recommencement of the offering of the Shares under this Agreement following the termination of a suspension of sales hereunder) and within three Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate under Section 4(q) for which no waiver is applicable, an opinion of Paul Hastings LLP, outside counsel for the Sales Agents and the Forward Purchasers, dated such date and addressed to the Sales Agents and the Forward Purchasers, in form and substance reasonably satisfactory to the Administrative Sales Agents.

(f) Accountants' Comfort Letter. The Sales Agents and the Forward Purchasers shall have received, on each Representation Date, Comfort Letters dated such date and addressed to the Sales Agents and the Forward Purchasers, in form and substance reasonably satisfactory to the Administrative Sales Agents, (i) confirming that the Accountants are an independent registered public accounting firm within the meaning of the Securities Act, the Exchange Act and the Public Company Accounting Oversight Board, (ii) stating, as of such date, the conclusions and information of the type ordinarily included in accountants' "comfort letters" to underwriters in connection with registered public offerings with respect to the audited and unaudited financial statements and certain other financial information contained or incorporated by reference in the Registration Statement and the Prospectus (the first such letter, the "**Initial Comfort Letter**") and (iii) in the case of any such letter after the Initial Comfort Letter, updating the Initial Comfort Letter with any information that would have been included in the Initial Comfort Letter had it been given on such date and modified as necessary to relate to the Registration Statement, the Prospectus or any Free Writing Prospectus, as amended or supplemented to the date of such letter.

(g) Secretary's Certificate. The Company shall deliver to the Sales Agents and the Forward Purchasers a certificate dated of even date hereof and executed by the Secretary of the Company, signing in such capacity, (i) certifying that attached thereto are true and complete copies of the resolutions duly adopted by the Board of Directors of the Company authorizing the execution and delivery of this Agreement and any Confirmation and the consummation of the transactions contemplated hereby and thereby (including, without limitation, the issuance of any Shares or any Confirmation Shares pursuant to this Agreement and any Confirmation), which authorization shall be in full force and effect on and as of the date of such certificate; (ii) certifying and attesting to the office, incumbency, due authority and specimen signatures of each person who executed this Agreement for or on behalf of the Company; and (iii) certifying as to such additional matters as the Administrative Sales Agents may reasonably request.

(h) Due Diligence. The Company shall have complied with all of its due diligence obligations required pursuant to Section 4(t).

(i) Compliance with Blue Sky Laws. The Shares and any Confirmation Shares shall be qualified for sale in such states and jurisdictions as the Sales Agents and the

Forward Purchasers may reasonably request, including, without limitation, the provinces and territories of Canada and other jurisdictions outside the United States, and each such qualification shall be in effect and not subject to any stop order or other proceeding on the relevant Representation Date.

(j) Stock Exchange Listing. The Shares and any Confirmation Shares shall have been duly authorized for listing on the NYSE subject only to notice of issuance at or prior to the applicable Settlement Date.

(k) Regulation M. The Common Stock shall be an “actively-traded security” excepted from the requirements of Rule 101 of Regulation M under the Exchange Act by subsection (c)(1) of such rule.

(l) Additional Certificates. The Company shall have furnished to the Sales Agents and Forward Purchasers such certificate or certificates, in addition to those specifically mentioned herein, as the Administrative Sales Agents may have reasonably requested as to the accuracy and completeness at each Representation Date of any statement in the Registration Statement or the Prospectus or any documents filed under the Exchange Act and deemed to be incorporated by reference into the Prospectus, as to the accuracy at such Representation Date of the representations and warranties of the Company herein, as to the performance by the Company of its obligations hereunder, or as to the fulfillment of the conditions concurrent and precedent to the obligations hereunder of the Sales Agents and the Forward Purchasers.

(m) No Termination Event. There shall not have occurred any event that would permit the Sales Agents to terminate this Agreement pursuant to Section 8(a) hereof.

(n) No Decrease in Debt Rating. Between any Applicable Times, there shall not have been any decrease in the rating of any of the Company’s or the Operating Partnership’s debt securities by any “nationally recognized statistical rating organization” (as defined for purposes of Section 3(a)(62) under the Exchange Act) or any notice given of any intended or potential decrease in any such rating or of a possible change in any such rating that does not indicate the direction of the possible change.

(o) Additional Conditions Relating to Forward. Prior to any offer or sales of Forward Hedge Shares by a Sales Agent as forward seller, the Company shall have executed and delivered a Master Confirmation to the applicable Forward Purchaser substantially in the form set forth in Schedule 4 hereto relating to such Forward; provided that the Company shall be required to only execute one Master Confirmation with each Forward Purchaser. Prior to the first trading day following the applicable Hedge Completion Date relating to any Forward, the Company shall have executed and delivered a Supplemental Confirmation to the applicable Forward Purchaser substantially in the form set forth in Schedule 4 hereto relating to such Forward.

## 6. Indemnification and Contribution.

(a) Company and Operating Partnership Indemnification. Each of the Company and the Operating Partnership, jointly and severally, agrees to indemnify and hold harmless each Sales Agent, each Forward Purchaser, and their respective directors, officers, partners, employees and agents and each person, if any, who, directly or indirectly, through one or more intermediaries, (i) controls such Sales Agent or such Forward Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act or (ii) is controlled by or is under common control with such Sales Agent or such Forward Purchaser, from and against any and all losses, claims, liabilities, expenses and damages (including, but not limited to, any and all reasonable investigative, legal and other expenses incurred in connection

with, and any and all amounts paid in settlement (in accordance with Section 6(c) hereof) of, any action, suit or proceeding between any of the indemnified parties and any indemnifying parties or between any indemnified party and any third party, or otherwise, or any claim asserted), as and when incurred, to which such Sales Agent, such Forward Purchaser, such director, officer, partner, employee, agent or any such person, may become subject under the Securities Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, liabilities, expenses or damages arise out of or are based, directly or indirectly, on (x) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or the Prospectus or any amendment or supplement to the Registration Statement or the Prospectus, or in any application or other document executed by or on behalf of the Company or the Operating Partnership or based on written information furnished by or on behalf of the Company or the Operating Partnership filed in any jurisdiction in order to qualify the Shares under the securities laws thereof or filed with the Commission or (y) the omission or alleged omission to state in any such document a material fact required to be stated in it or necessary to make the statements in it not misleading; provided, however, that this indemnity agreement shall not apply to the extent that such loss, claim, liability, expense or damage arises from the sale of the Shares pursuant to this Agreement and is caused directly or indirectly by an untrue statement or omission made in reliance upon and in conformity with written information relating to the Sales Agents or the Forward Purchasers and furnished to the Company by the Sales Agents or the Forward Purchasers expressly for inclusion in any document as described in the last sentence of this Section 6(a). This indemnity agreement will be in addition to any liability that the Company or the Operating Partnership might otherwise have. The Company and the Operating Partnership acknowledge that the following statements set forth in the Prospectus Supplement constitute the only information furnished in writing by or on behalf of the Sales Agents and the Forward Purchasers for inclusion in any Prospectus or any Free Writing Prospectus: (i) the names of the Sales Agents and the Forward Purchasers, and (ii) the paragraph related to electronic distribution of the Prospectus.

(b) Indemnification of the Sales Agents. Each Sales Agent, severally and not jointly, agrees to indemnify and hold harmless the Company, its directors, each officer of the Company that signed the Registration Statement, the Operating Partnership and each person, if any, who (i) controls the Company or the Operating Partnership within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act or (ii) is controlled by or is under common control with the Company or the Operating Partnership, against any and all loss, liability, claim, damage and expense described in the indemnity contained in Section 6(a) 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 amendments thereto) or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information relating to such Sales Agent or, if applicable, the relevant Forward Purchaser and furnished to the Company by such Sales Agent or the relevant Forward Purchaser expressly for inclusion in any document as described in Section 6(a) hereof.

(c) Procedure. Any party that proposes to assert the right to be indemnified under this Section 6 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 6, notify in writing each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve the indemnifying party from (i) any liability that it might have to any indemnified party otherwise than under this Section 6 and (ii) any liability that it may have to any indemnified party under the foregoing provision of this Section 6 unless, and only to the extent that, such omission results in the forfeiture of substantive rights or defenses by the indemnifying party. If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects by delivering written notice to the indemnified party

promptly after receiving notice of the commencement of the action from the indemnified party, jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel reasonably satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable costs of investigation subsequently incurred by the indemnified party in connection with the defense. The indemnified party will have the right to employ its own counsel in any such action, but the fees, expenses and other charges of such counsel will be at the expense of such indemnified party unless (i) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party, (ii) the indemnified party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party, (iii) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party) or (iv) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees, disbursements and other charges will be reimbursed by the indemnifying party promptly as they are incurred. An indemnifying party will not, in any event, be liable for any settlement of any action or claim effected without its written consent. No indemnifying party shall, without the prior written consent of each indemnified party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated by this Section 6 (whether or not any indemnified party is a party thereto), unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising or that may arise out of such claim, action or proceeding. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by this Section 6, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement.

(d) Contribution. If the indemnification provided for in this Section 6 is for any reason held to be unavailable to or otherwise insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount paid or payable by such indemnified party, as incurred, as a result of any losses, claims, damages, liabilities or expenses referred to therein (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Operating Partnership, on the one hand, and each applicable Sales Agent and, if applicable, each relevant Forward Purchaser, on the other hand, from the offering of the related Shares pursuant to this Agreement and each applicable Confirmation, or (ii) if the allocation provided by clause (i) above 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 Company and the Operating Partnership, on the one hand, and each applicable Sales Agent and, if applicable, each relevant Forward Purchaser, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations; *provided* that the



applicable Sales Agents' obligations to contribute under this Section 6(d) shall be several and not joint. The relative benefits received by the Company, the Operating Partnership, each applicable Sales Agent and each applicable Forward Purchaser shall be deemed to be in the same respective proportions as (I)(A) in the case of the Company and the Operating Partnership, the total proceeds from the offering of the related Shares and any Confirmation Shares assuming full Physical Settlement of such Confirmation on the applicable Effective Date (as defined in each applicable Confirmation) (net of commissions paid but before deducting expenses) received by the Company, (B) in the case of each applicable Sales Agent, the sum of (i) the total commissions received by such Sales Agent pursuant to this Agreement and (ii) in the case of any Shares purchased by such Sales Agent as principal, discounts received by such Sales Agent under this Agreement and any applicable Terms Agreement, and (C) in the case of each applicable Forward Purchaser, the aggregate for all applicable Forwards under this Agreement and the related Confirmations between such Forward Purchaser and the Company of each amount accrued in respect of the Spread on the Number of Shares (as defined in such Confirmation) net of any commercially reasonable hedging costs bear to (II) the aggregate gross sales price of the Shares sold to or through each applicable Sales Agent pursuant to this Agreement, any such Terms Agreement and any such Confirmation. For the avoidance of doubt, the commission to a Sales Agent for sales of Forward Hedge Shares shall be deemed to equal, on a per share basis, the applicable Forward Seller Commission as a percentage reduction to the Volume-Weighted Hedge Price (as defined in each applicable Confirmation) under such Confirmation. The relative fault of the Company and the Operating Partnership, each applicable Sales Agent and, if applicable, each relevant Forward Purchaser 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 each such party and their relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in Section 6(c) hereof, any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim. The provisions set forth in Section 6(c) hereof with respect to notice of commencement of any action shall apply if a claim for contribution is to be made under this Section 6(d); *provided, however*, that no additional notice shall be required with respect to any action for which notice has been given under Section 6(c) hereof for purposes of indemnification.

The Company and each Sales Agent agree that it would not be just and equitable if contributions pursuant to this Section 6(d) were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 6(d). Notwithstanding the provisions of this Section 6(d), no Sales Agent shall be required to contribute any amount in excess of commissions received by it under this Agreement. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) The Company and each Sales Agent agree promptly to notify the other parties hereto of the commencement of any action against it, in the case of a Sales Agent, the relevant Forward Purchaser and, in the case of the Company, against any of the Company's officers or directors in connection with the issuance and sale of the Shares and any Confirmation Shares, or in connection with the Registration Statement, the Prospectus or any Free Writing Prospectus.

7. Representations and Agreements to Survive Delivery. The indemnity and contribution agreements contained in Section 6 hereof and all covenants, representations and warranties of the Company and the Operating Partnership contained in this Agreement, any Confirmation or in certificates delivered pursuant hereto shall survive, as of their respective dates, regardless of any investigation made by or on behalf of any Sales Agent or any Forward Purchaser, their respective affiliates, directors, officers, employees, agents or any person (including each officer, director, employee or agent of such person) who controls such Sales Agent or such Forward Purchaser within the meaning of the Securities Act or the Exchange Act, or by or on behalf of the Company or the Operating Partnership, their respective directors or officers or any person who controls the Company or the Operating Partnership within the meaning of the Securities Act or the Exchange Act, and shall survive any termination of this Agreement, any Confirmation or the issuance and delivery of the Shares and any Confirmation Shares.

8. Termination.

(a) The Administrative Sales Agents shall have the right by giving notice as hereinafter specified at any time to terminate this Agreement if (i) any Material Adverse Effect, or any development that could reasonably be expected to cause a Material Adverse Effect has occurred, that, in the judgment of the Administrative Sales Agents, may materially impair the ability of the Sales Agents to sell the Shares hereunder; (ii) the Company or the Operating Partnership shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for all or substantially all of its property or business; or such a receiver or trustee shall otherwise be appointed; (iii) bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Company or any of its subsidiaries; (iv) the Company or the Operating Partnership shall have failed, refused or been unable to perform any agreement on its part to be performed hereunder; provided, however, in the case of any failure of the Company to deliver (or cause another person to deliver) any certification, opinion, or letter required under Sections 4(q), 4(r) or 4(s) hereof, the Administrative Sales Agents' right to terminate shall not arise unless such failure to deliver (or cause to be delivered) continues for more than thirty days from the date such delivery was required; (v) any other condition of the Sales Agents' obligations hereunder is not fulfilled; or (vi) any suspension or limitation of trading in the Common Stock or in securities generally on NYSE shall have occurred. Any such termination shall be without liability of any party to any other party except that the provisions of Section 4(k) (Expenses), Section 6 (Indemnification and Contribution), Section 7 (Representations and Agreements to Survive Delivery), Section 13 (Applicable Law; Consent to Jurisdiction) and Section 14 (Waiver of Jury Trial) hereof shall remain in full force and effect notwithstanding such termination.

(b) The Company and the Operating Partnership shall have the right, by giving ten days' notice as hereinafter specified, to terminate this Agreement in their sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 4(k), Section 6, Section 7, Section 13 and Section 14 hereof shall remain in full force and effect notwithstanding such termination.

(c) Each Sales Agent and each Forward Purchaser, as to itself, shall have the right, by giving ten days' notice as hereinafter specified to terminate this Agreement in their sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 4(k), Section 6, Section 7, Section 13 and Section 14 hereof shall remain in full force and effect notwithstanding such termination.

(d) Unless earlier terminated pursuant to this Section 8, this Agreement shall automatically terminate upon the issuance and sale of all of the Shares through the Sales Agents on the terms and subject to the conditions set forth herein; provided that the provisions of Section 4(k), Section 6, Section 7, Section 13 and Section 14 hereof shall remain in full force and effect notwithstanding such termination.

(e) This Agreement shall remain in full force and effect unless terminated pursuant to Sections 8(a), (b), (c), or (d) hereof or otherwise by mutual agreement of the parties; provided, however, that any such termination by mutual agreement shall in all cases be deemed to provide that Section 4(k), Section 6, Section 7, Section 13 and Section 14 hereof shall remain in full force and effect.

(f) Any termination of this Agreement shall be effective on the date specified in such notice of termination; provided, however, that such termination shall not be effective until the close of business on the date of receipt of such notice by the Sales Agents, the Forward Purchasers or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Shares or the settlement of any Confirmation, such sale shall settle in accordance with the provisions of this Agreement and any applicable Confirmation.

9. Notices. Except as otherwise provided herein, all notices or other communications required or permitted to be given by any party to any other party pursuant to the terms of this Agreement shall be in writing, unless otherwise specified in this Agreement, and:

(a) if sent to a Sales Agent, shall be delivered to the applicable Sales Agent as follows:

BMO Capital Markets Corp., 151 W 42<sup>nd</sup> Street, New York, New York 10036, Fax: (312) 461-2968, Attention: Stephan Richford, email: [stephan.richford@bmo.com](mailto:stephan.richford@bmo.com) and Eric Benedict, email: [eric.benedict@bmo.com](mailto:eric.benedict@bmo.com); with a copy to Legal Department (facsimile: (212) 702-1205)

BofA Securities, Inc., One Bryant Park, New York, New York 10036, Fax: (212) 449-0355, Attention: Christine Roemer, email: [christine.roemer@bofa.com](mailto:christine.roemer@bofa.com), with copies to ECM Legal, Facsimile: (212) 230-8730

Citigroup Global Markets Inc., 388 Greenwich Street, New York, New York 10013, Attention: General Counsel, Fax: (646) 291-1469, Attention: [eq.us.corporates.middle.office@citi.com](mailto:eq.us.corporates.middle.office@citi.com), [eq.us.ses.notifications@citi.com](mailto:eq.us.ses.notifications@citi.com), [matthew.morris@citi.com](mailto:matthew.morris@citi.com), [catherine.hornyak@citi.com](mailto:catherine.hornyak@citi.com)

J.P. Morgan Securities LLC, 383 Madison Avenue  
New York, New York 10179; Attention: Stephanie Little, Email:  
stephanie.y.little@jpmorgan.com, Phone: (312) 732-3229

RBC Capital Markets, LLC, Attention: Equity Syndicate, 200  
Vesey Street, 8<sup>th</sup> Floor, New York, New York 10281, Attention: TJ  
Opladen, facsimile: (212) 428-6260 and email:  
tj.opladen@rbccm.com

Regions Securities LLC, 615 South College Street, Suite 600,  
Charlotte, North Carolina 28202, Attention: Corporate Services  
Desk, Brit Stephens (email brit.stephens@regions.com) and  
ecmdesk@regions.com

Fifth Third Securities, Inc., 38 Fountain Square Plaza, Cincinnati,  
Ohio 45263, Attention: Glenn Goggins, FTS Legal, facsimile: 513-  
534-0964

BTIG, LLC, 65 East 55<sup>th</sup> Street, New York, New York 10022,  
Attention: Equity Capital Markets, email:  
BTIGUSATMTrading@btig.com, with copies (which shall not  
constitute notice) to: BTIG, LLC, 600 Montgomery Street, 6th  
Floor, San Francisco, California 94111, Attention: General  
Counsel and Chief Compliance Office

Jefferies LLC, 520 Madison Avenue, New York, New York 10022,  
Attention: General Counsel, facsimile: (646) 619-4437

Samuel A. Ramirez & Company, Inc., 61 Broadway, 29th Floor,  
New York, New York 10006, Attention: Larry Goldman

Robert W. Baird & Co. Incorporated, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202, Attention: Syndicate Department (facsimile: (414) 298-7474), with a copy to the Legal Department, email: Barb Nelson, banelson@rwbaird.com; Sandy Walter, swalter@rwbaird.com; Matt Gailey, mgailey@rwbaird.com

and; and in each case, with a copy to Paul Hastings LLP, 200 Park Avenue, New York, New York 10166, Attention: Yariv C. Katz, Esq., email: yarivkatz@paulhastings.com

(b) if sent to a Forward Purchaser, shall be delivered to the applicable Forward Purchaser as follows:

Bank of Montreal, 55 Bloor Street West, 18th Floor, Toronto, Ontario M4W 1A5, Canada, Attention: Manager, Derivatives Operations, Facsimile: (416) 552-7904, Telephone: (416) 552-4177; With a copy to: 100 King Street West, 20th Floor, Toronto, Ontario M5X 1A1, Canada, Attention: Associate General Counsel & Managing Director, Derivatives Legal Group, Facsimile: (416) 956-2318, and BMO Capital Markets Corp., 151 W 42<sup>nd</sup> Street, New York, New York 10036, Attention: Brian Riley, Telephone: (212) 605-1414

Bank of America, N.A., One Bryant Park, New York, New York 10036, attention of Rohan Handa (email: rohan.handa@bofa.com)

Citibank, N.A., 390 Greenwich Street, New York, New York 10013, Attention: General Counsel, Fax: (646) 291-1469, Attention: eq.us.corporates.middle.office@citi.com, eric.natelson@citi.com, eq.us.ses.notifications@citi.com, theodore.finkelstein@citi.com

JPMorgan Chase Bank, National Association, EDG Marketing Support,  
Email: [edg\\_notices@jpmorgan.com](mailto:edg_notices@jpmorgan.com),  
[edg\\_ny\\_corporate\\_sales\\_support@jpmorgan.com](mailto:edg_ny_corporate_sales_support@jpmorgan.com), Facsimile No: 1-866-  
886-4506; With a copy to: Stephanie Little, Executive Director, Email:  
[Stephanie.y.little@jpmorgan.com](mailto:Stephanie.y.little@jpmorgan.com), Phone: 312-732-3229

Royal Bank of Canada, 200 Vesey Street, 8th floor, New York, New  
York 10281, Attention: ECM (email:  
[RBCECMCorporateEquityLinkedDocumentation@rbc.com](mailto:RBCECMCorporateEquityLinkedDocumentation@rbc.com))

(c) or if sent to the Company or the Operating Partnership, shall be delivered to 27777 Franklin Road, Suite 200, Southfield, Michigan 48034, Fax (248) 208-2641, Attention: Karen J. Dearing and Fernando Castro-Caratini, email: Karen J. Dearing, [Kdearing@suncommunities.com](mailto:Kdearing@suncommunities.com) and Fernando Castro-Caratini, [fcastro@suncommunities.com](mailto:fcastro@suncommunities.com), with copies to Jaffe, Raitt, Heuer & Weiss PC, 27777 Franklin Road, Suite 2500, Southfield, Michigan 48034, Fax: (248) 351-3082, Attention: Matthew Murphy, Esq., email: [mmurphy@jaffelaw.com](mailto:mmurphy@jaffelaw.com).

(d) Each of the parties to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose. Each such notice or other communication shall be deemed given (i) when delivered personally or by verifiable facsimile or email transmission (with an original to follow) on or before 5:00 p.m., New York City time, on a Business Day or, if such day is not a Business Day, on the next succeeding Business Day, (ii) on the next Business Day after timely delivery to a nationally recognized overnight courier and (iii) on the Business Day actually received if deposited in the U.S. mail (certified or registered mail, return receipt requested, postage prepaid). For purposes of this Agreement, “**Business Day**” shall mean any day on which NYSE and commercial banks in the City of New York are open for business.

10. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Company, the Operating Partnership, the Sales Agents and the Forward Purchasers and their respective successors and the affiliates, controlling persons, officers and trustees referred to in Section 6 hereof. References to any of the parties contained in this Agreement shall be deemed to include the successors and permitted assigns of such party. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. No party may assign its rights or obligations under this Agreement without the prior written consent of the other parties.

11. Adjustments for Share Splits. The parties acknowledge and agree that all share-related numbers contained in this Agreement or any Confirmation shall be adjusted to take into account any share split, share dividend or similar event effected with respect to the Shares or any Confirmation Shares.

12. Entire Agreement; Amendment; Severability. This Agreement (including all schedules and exhibits attached hereto and Placement Notices issued pursuant hereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter

hereof. Neither this Agreement nor any term hereof may be amended except pursuant to a written instrument executed by the Company, the Operating Partnership and the Administrative Sales Agents; provided, however, that no amendment that imposes additional liabilities or obligations on any Sales Agent or any Forward Purchasers shall be effective as to such Sales Agent and such Forward Purchasers unless it agrees to the amendment in writing. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Agreement.

13. Applicable Law; Consent to Jurisdiction. This Agreement and any claim, counterclaim or dispute of any kind or nature whatsoever arising out of or in any way relating to this Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the principles of conflicts of laws. Each of the parties hereby irrevocably submits to the non-exclusive jurisdiction of the state and federal courts sitting in the City of New York, for the adjudication of any dispute hereunder or in connection with any transaction contemplated hereby, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each of the parties hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof (certified or registered mail, return receipt requested) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law.

14. Waiver of Jury Trial. The Company, the Operating Partnership, the Sales Agents and the Forward Purchasers each hereby irrevocably waives any right it may have to a trial by jury in respect of any claim based upon or arising out of this Agreement or any transaction contemplated hereby.

15. Absence of Fiduciary Relationship. The Company and the Operating Partnership acknowledge and agree that:

(a) The Sales Agents have been retained solely to act as agents in connection with the sale of the Shares and that no fiduciary relationship between the Company and the Sales Agents or the Forward Purchasers has been created in respect of any of the transactions contemplated by this Agreement or any Confirmation, irrespective of whether the Sales Agents or Forward Purchasers have advised or are advising the Company on other matters;

(b) Each of the Company and the Operating Partnership is capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated by this Agreement or any Confirmation;

(c) Each of the Company and the Operating Partnership has been advised that the Sales Agents, the Forward Purchasers, and their respective affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company or the Operating Partnership and that the Sales Agents and the Forward Purchasers have no obligation to disclose such interests and transactions to the Company or the Operating Partnership by virtue of any fiduciary, advisory or agency relationship; and

(d) Each of the Company and the Operating Partnership waives, to the fullest extent permitted by law, any claims it may have against each Sales Agent and each Forward Purchaser, for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that each Sales Agent and each Forward Purchaser shall have no liability (whether direct or indirect) to the Company or the Operating Partnership in respect of such a fiduciary claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company or the Operating Partnership, including stockholders, partners, employees or creditors of the Company or the Operating Partnership.

16. **Press Releases and Disclosure.** Each of the parties hereto shall use commercially reasonable efforts, acting in good faith, to consult with the other parties prior to issuing any press release or like public statement related to this Agreement or any of the transactions contemplated hereby, except as may be necessary or appropriate in the opinion of the party seeking to make disclosure to comply with the requirements of applicable law or stock exchange rules.

17. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com (any such signature, an “**Electronic Signature**”)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. The words “execution,” “signed,” “signature,” and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include any Electronic Signature, except to the extent electronic notices are expressly prohibited under this Agreement.

18. **Definitions.** As used in this Agreement, the following terms have the respective meanings set forth below:

(a) “**Applicable Time**” means the date of this Agreement, each Representation Date on which a certificate is required to be delivered pursuant to Section 4(q), the date on which a Placement Notice is given, any date on which Shares are sold hereunder, any date on which Confirmation Shares are delivered or such other time as agreed to by the Company and the Administrative Sales Agents.

(b) “**GAAP**” means United States generally accepted accounting principles.

(c) “**Administrative Sales Agents**” means BMO, BofA, Citigroup and JPM.

(d) “**Organizational Documents**” means (a) in the case of a corporation, its charter and by-laws; (b) in the case of a limited or general partnership, its partnership certificate, certificate of formation or similar organizational document and its partnership agreement; (c) in the case of a limited liability company, its articles of organization, certificate of formation or similar organizational documents and its operating agreement, limited liability company agreement, membership agreement or other similar agreement; (d) in the case of a trust, its certificate of trust, certificate of formation or similar organizational document and its trust agreement or other similar agreement; and (e) in the case of any other entity, the organizational and governing documents of such entity.

(e) “**subsidiary**” or “**subsidiaries**” means each direct and indirect subsidiary of the Company, including, without limitation, the Operating Partnership, and all direct and indirect subsidiaries of the Operating Partnership.



19. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Sales Agent or any Forward Purchaser that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Sales Agent or such Forward Purchaser of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Sales Agent or any Forward Purchaser that is a Covered Entity or a BHC Act Affiliate of such Sales Agent or such Forward Purchaser becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Sales Agent or such Forward Purchaser are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

As used in this Section 19, “BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k); “Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b), (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b) or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b); “Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable; and “U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.”

If the foregoing correctly sets forth the understanding among the Company, the Operating Partnership, each Sales Agent and each Forward Purchaser, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement among the Company, the Operating Partnership, the Sales Agents and the Forward Purchasers.

Very truly yours,

**SUN COMMUNITIES, INC.**

By: /s/ Karen J. Dearing  
Name: Karen J. Dearing  
Title: Chief Financial Officer

**SUN COMMUNITIES OPERATING LIMITED PARTNERSHIP**

By: Sun Communities, Inc., its General Partner

By: /s/ Karen J. Dearing  
Name: Karen J. Dearing  
Title: Chief Financial Officer

*[Signature Page to the At the Market Offering Sales Agreement]*

**ACCEPTED as of the date first-above written:**

**BMO CAPITAL MARKETS CORP.**

By: /s/ Matthew Coley  
Name: Matthew Coley  
Title: Manager, Derivatives Operations

**BANK OF MONTREAL**

By: /s/ Sue Henderson  
Name: Sue Henderson  
Title: Director, Derivatives Operations

*[Signature Page to the At the Market Offering Sales Agreement]*

**BOFA SECURITIES, INC.**

By: /s/ Hicham Hamdouch  
Name: Hicham Hamdouch  
Title: Managing Director

**BANK OF AMERICA, N.A.**

By: /s/ Jake Mendelsohn  
Name: Jake Mendelsohn  
Title: Managing Director

*[Signature Page to the At the Market Offering Sales Agreement]*

**CITIGROUP GLOBAL MARKETS INC.**

By: /s/ Jared M Nutt  
Name: Jared M Nutt  
Title: Director

**CITIBANK, N.A.**

By: /s/ James Heathcote  
Name: James Heathcote  
Title: Authorized Signatory

*[Signature Page to the At the Market Offering Sales Agreement]*

**J.P. MORGAN SECURITIES LLC**

By:/s/ Brett Chalmers  
Name: Brett Chalmers  
Title: Vice President

**JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION**

By:/s/ Brett Chalmers  
Name: Brett Chalmers  
Title: Vice President

*[Signature Page to the At the Market Offering Sales Agreement]*

**RBC CAPITAL MARKETS, LLC**

By: /s/ Donovan Campbell  
Name: Donovan Campbell  
Title: Managing Director

**ROYAL BANK OF CANADA**

By: /s/ Brian Ward  
Name: Brian Ward  
Title: Managing Director

*[Signature Page to the At the Market Offering Sales Agreement]*

**REGIONS SECURITIES LLC**

By: /s/ Brit Stephens  
Name: Brit Stephens  
Title: Managing Director

*[Signature Page to the At the Market Offering Sales Agreement]*



**FIFTH THIRD SECURITIES, INC.**

By: /s/ Susannah Doyle Lunke  
Name: Susannah Doyle Lunke  
Title: Managing Director, SVP

*[Signature Page to the At the Market Offering Sales Agreement]*

**BTIG, LLC**

By: /s/ Stephen Ortiz  
Name: Stephen Ortiz  
Title: Managing Director

*[Signature Page to the At the Market Offering Sales Agreement]*

**JEFFERIES LLC**

By: /s/ Michael Magarro  
Name: Michael Magarro  
Title: Managing Director

*[Signature Page to the At the Market Offering Sales Agreement]*

**SAMUEL A. RAMIREZ & COMPANY, INC.**

By: /s/ Richard Viton  
Name: Richard Viton  
Title: Managing Director

*[Signature Page to the At the Market Offering Sales Agreement]*

**ROBERT W. BAIRD & CO. INCORPORATED**

By: /s/ Christopher Walter  
Name: Christopher Walter  
Title: Managing Director

*[Signature Page to the At the Market Offering Sales Agreement]*

**Compensation**

The Sales Agents shall be paid compensation in an agreed-upon amount not to exceed 2.0% of the gross proceeds from the sale of Shares pursuant to the terms of this Agreement.

The Sales Agents, as forward sellers for the applicable Forward Purchaser, for sales of Forward Hedge Shares shall be paid compensation in an agreed-upon amount not to exceed 2.0%.

December 17, 2021

Sun Communities, Inc.  
27777 Franklin Road, Suite 200  
Southfield, Michigan 48034

Re: Sun Communities, Inc. – Registration Statement on Form S-3  
(File No: 333-255020) (the “Registration Statement”)

Ladies and Gentlemen:

We have acted as special Maryland counsel to Sun Communities, Inc., a Maryland corporation (the “Company”), in connection with the issuance by the Company of shares of the Company’s common stock, par value \$0.01 per share (the “Common Stock”), having an aggregate offering price of up to \$1,250,000,000 (the “Shares”), pursuant to the above-referenced Registration Statement filed by the Company with the U.S. Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended, and the regulations promulgated thereunder. The Shares are to be issued by the Company pursuant to, and in accordance with the terms and conditions of, (i) the At the Market Offering Sales Agreement, dated December 17, 2021 (the “Sales Agreement”), among the Company, Sun Communities Operating Limited Partnership, a Michigan limited partnership of which the Company acts as the general partner, BMO Capital Markets Corp., BofA Securities, Inc., Citigroup Global Markets, Inc., J.P. Morgan Securities LLC, RBC Capital Markets, LLC, Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez & Company, Inc. and Robert W. Baird & Co. Incorporated as sales agent, principal and/or (except in the case of Regions Securities LLC, Fifth Third Securities, Inc., BTIG, LLC, Jefferies LLC, Samuel A. Ramirez & Company, Inc. and Robert W. Baird & Co. Incorporated) forward seller (in such capacity, each a “Sales Agent” and collectively, the “Sales Agents”), and each of Bank of Montreal, Bank of America, N.A., Citibank, N.A., JPMorgan Chase Bank, National Association, and Royal Bank of Canada (each, or one of their respective affiliates, in such capacity, a “Forward Purchaser” and collectively, the “Forward Purchasers”), and (ii) any letter agreement to be entered into between the Company and a Forward Purchaser relating to any forward stock purchase transactions (the “Master Confirmation”), as described therein and in the Sales Agreement, as shall be supplemented by one or more supplemental confirmations (together with the relevant Master Confirmation, a “Confirmation”), substantially in the form set forth in Schedule 4 to the Sales Agreement (the “Form of Confirmation”) and as contemplated by Section 2(a) of the Sales Agreement. The Registration Statement includes a prospectus dated April 2, 2021, and a prospectus supplement (the “Prospectus Supplement”) filed with the Commission on December 17, 2021 (collectively, the “Prospectus”), to be furnished to potential purchasers of the Shares and/or shares of Common Stock that a Forward Purchaser will borrow from third parties and that will be sold on their behalf by the applicable Sales Agent (the “Offering”). We understand that our opinion is required to be filed as an exhibit to the Registration Statement.

In our capacity as special Maryland counsel to the Company and for purposes of this opinion, we have reviewed the originals, or copies certified or otherwise identified to our satisfaction, of the following documents:

- A. the Registration Statement, including the Prospectus;

- B. the charter of the Company, certified on the date hereof as being a true, correct, and complete copy thereof by the Chief Financial Officer and Secretary of the Company (the “Charter Documents”);
- C. the Third Amended and Restated Bylaws of the Company, certified on the date hereof as being a true, correct, and complete copy thereof by the Chief Financial Officer and Secretary of the Company (the “Bylaws”);
- D. the Sales Agreement and the Form of Confirmation;
- E. certain resolutions adopted by the Board of Directors of the Company regarding the Offering, the Sales Agreement, the Form of Confirmation, and the filing of the Prospectus Supplement (the “Resolutions”);
- F. a certificate of the Company regarding certain matters related to the Sales Agreement, the Form of Confirmation, the issuance and sale of the Shares, the Registration Statement, and the filing of the Prospectus Supplement (the “Certificate”);
- G. a certificate of the Maryland State Department of Assessments and Taxation (“SDAT”) dated December 16, 2021, to the effect that the Company is duly incorporated and existing under the laws of the State of Maryland and is in good standing and duly authorized to transact business in the State of Maryland (the “Good Standing Certificate”); and
- H. such other documents, corporate records, and instruments as we have deemed necessary or appropriate, in our professional judgment, in connection with providing this opinion letter, subject to the limitations, assumptions, and qualifications contained herein.

In rendering the opinion set forth below, we have assumed: (i) the genuineness of all signatures and the legal capacity of all individuals who have executed any of the documents we have reviewed; (ii) the authenticity of all documents submitted to us as originals, the conformity with originals of all documents submitted to us as certified, photostatic, or facsimile copies or portable document file (“pdf”) or other electronic image format copies (and the authenticity of the originals of such copies), and that the form and content of all documents submitted to us as unexecuted drafts do not differ in any respect relevant to this opinion from the form and content of such documents as executed and delivered; (iii) that there has been no oral or written modification of or amendment to any of the documents we have reviewed, and that there has been no waiver of any provision of any of the documents we have reviewed in connection with this opinion, by action or omission of the parties or otherwise; (iv) that all documents submitted to us and public records we have reviewed or relied upon are accurate and complete; (v) that the Charter Documents, the Bylaws, and the Resolutions have not been amended or rescinded; and (vi) that the persons identified as officers of the Company are actually serving as such and that any certificates representing the Shares are properly executed by one or more such persons.

We have also assumed that: (i) the Resolutions and the actions reflected therein authorizing the Company to issue, offer, and sell the Shares are, and will be, in full force and effect at all times at which any Shares are offered or sold by the Company; (ii) the pricing committee of the Company’s Board of Directors established pursuant to the Resolutions will have taken action necessary to set the sales price of the Shares (“Pricing Committee Resolutions”), and that any such Pricing Committee Resolutions will be in full force and effect at all times at which any Shares are offered or sold by the Company; (iii) the Registration Statement and any amendment thereto will remain effective at the time of the issuance of any



Shares thereunder; (iv) at the time of the issuance of any Shares, the Company or its transfer agent will record in the Company's stock ledger the name of the persons to whom such Shares are issued; (v) none of the Shares will be issued in violation of the restrictions on ownership and transfer set forth in Article VII of the Charter Documents; (vi) upon the issuance of any Shares, the total number of shares of Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under the Charter Documents; (vii) the Company will remain duly organized, validly existing, and in good standing under Maryland law at the time any Shares are issued; (viii) as to all acts undertaken by any governmental authority, and of those persons purporting to act in any governmental capacity, that the persons acting on behalf of the governmental authority have the power and authority to do so, and that all actions taken by such persons on behalf of such governmental authority are valid, legal, and sufficient; and (ix) all representations, warranties, certifications, and statements with respect to matters of fact and other factual information (a) made by public officers, (b) made by officers or representatives of the Company, including certifications made in the Certificate, and (c) made or contained in any documents we have reviewed, are accurate, true, correct, and complete in all material respects.

As to any facts material to our opinion set forth below, without undertaking to verify the same by independent investigation, we have relied exclusively upon the documents we have reviewed, the statements and information set forth in such documents, the Certificate, and the additional matters recited or assumed in this letter, all of which we assume to be true, complete, and accurate in all respects.

Based upon the foregoing and subject to the limitations and assumptions set forth herein, and having due regard for such legal considerations as we deem relevant, we are of the opinion that (i) the Company has been duly incorporated and is validly existing as a corporation under the laws of the State of Maryland and, based solely on the Good Standing Certificate, is in good standing with SDAT as of the date of the Good Standing Certificate, and (ii) the Shares have been duly authorized for issuance by all necessary corporate action on the part of the Company and, when issued and delivered by the Company to a Sales Agent and/or a Forward Purchaser, as applicable, in accordance with the terms of the Sales Agreement and/or a Confirmation, as applicable, in exchange for payment therefor in accordance with the Resolutions, the Pricing Committee Resolutions, and the Sales Agreement and the applicable Confirmation, as applicable, will be validly issued, fully paid, and nonassessable.

The foregoing opinions are based on and are limited to the Maryland General Corporation Law (including the reported judicial decisions interpreting those laws currently in effect), and we express no opinion herein with respect to the effect or applicability of any other laws or the laws of any other jurisdiction. The opinions expressed herein concerns only the effect of the laws (excluding the principles of conflict of laws) as currently in effect, and we assume no obligation to supplement the opinions expressed herein if any applicable laws change after the date hereof, or if we become aware of any facts that might change the opinions expressed herein after the date hereof. The opinions are limited to the matters set forth herein, and no other opinions should be inferred or implied beyond the matters expressly stated.

Notwithstanding anything to the contrary contained herein, we express no opinion concerning the securities laws of the State of Maryland, or the rules and regulations promulgated thereunder, or any decisional laws interpreting any of the provisions of the securities laws of the State of Maryland, or the rules and regulations promulgated thereunder.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Company's Current Report on Form 8-K relating to the filing of the Prospectus Supplement,

which is incorporated by reference in the Registration Statement, and to the reference to our firm under the caption “Legal Matters” in the Prospectus. By giving such consent, we do not admit that we are experts with respect to any part of the Registration Statement, including Exhibit 5.1, within the meaning of the term “expert” as used in the Securities Act or the rules and regulations promulgated thereunder.

Very truly yours,

BAKER, DONELSON,  
BEARMAN, CALDWELL  
& BERKOWITZ, a professional  
corporation

By: /s/ Kenneth B. Abel  
Kenneth B. Abel

Authorized Representative

To: **Sun Communities, Inc.**  
27777 Franklin Road, Suite 200  
Southfield, Michigan 48304

From: [DEALER NAME AND NOTICE INFORMATION]

Date: [\*, 202[\*]

Ladies and Gentlemen:

The purpose of this communication (this “**Master Confirmation**”) is to set forth the terms and conditions of the transactions to be entered into from time to time between [DEALER NAME] (“**Dealer**”) and Sun Communities, Inc. (“**Counterparty**”) on one or more Trade Dates specified herein (collectively, the “**Transactions**” and each, a “**Transaction**”). This communication constitutes a “Confirmation” as referred to in the Agreement specified below. Each Transaction will be evidenced by a supplemental confirmation, substantially in the form attached as Annex B hereto (each, a “**Supplemental Confirmation**,” and each such Supplemental Confirmation, together with this Master Confirmation, a “**Confirmation**”). Each Confirmation will be a confirmation for purposes of Rule 10b-10 promulgated under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”).

1. Each Confirmation is subject to, and incorporates, the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”) and the 2006 ISDA Definitions (the “**Swap Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”). For purposes of the Equity Definitions, each Transaction will be deemed to be a Share Forward Transaction.

Each Confirmation shall supplement, form a part of and be subject to an agreement (the “**Agreement**”) in the form of the 2002 ISDA Master Agreement (the “**ISDA Form**”), as published by ISDA, as if Dealer and Counterparty had executed the ISDA Form on the date hereof (but without any Schedule) except for (i) the election of New York law (without regard to New York’s choice of laws doctrine other than Title 14 of Article 5 of the New York General Obligations Law) as the governing law and US Dollars (“**USD**”) as the Termination Currency; (ii) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Counterparty and Dealer, with a “Threshold Amount” of USD 50 million for Counterparty and a “Threshold Amount” equal to 3% of [members’][shareholders’] equity of [Dealer][ ] (“**Dealer Parent**”)]<sup>1</sup> as of the date hereof for Dealer; *provided* that (a) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi) of the Agreement, (b) the following sentence shall be added to the end thereof: “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within three Local Business Days of such party’s receipt of written notice of its failure to pay.”; (c) the term “Specified Indebtedness” shall have the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of a party’s banking business; and (iii) the elections set forth in Section 9 of this Master Confirmation. All provisions contained in the Agreement are incorporated into and shall govern this Master Confirmation except as expressly modified herein. This Master Confirmation, each Supplemental Confirmation and the Agreement evidence a complete and binding agreement between Dealer and Counterparty as to the terms of the applicable Transaction and replace any previous agreement between the parties with respect to the subject matter hereof and thereof.

The Transactions hereunder shall be the sole Transactions under the Agreement. If there exists any ISDA Master Agreement between Dealer or any of its Affiliates (each, a “**Dealer Affiliate**”) and Counterparty or any confirmation or other agreement between Dealer or a Dealer Affiliate and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer or a Dealer Affiliate and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer or a Dealer Affiliate and Counterparty are parties, each Transaction and any Additional Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

If, in relation to any Transaction, there is any inconsistency between the Agreement, this Master Confirmation, the relevant Supplemental Confirmation, the Equity Definitions and the Swap Definitions, the

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<sup>1</sup> Add name of Dealer Parent, if applicable.

following will prevail for purposes of such Transaction in the order of precedence indicated: (i) the relevant Supplemental Confirmation; (ii) this Master Confirmation; (iii) the Equity Definitions; (iv) the Swap Definitions; and (v) the Agreement.

2. The terms of the particular Transactions to which this Master Confirmation relates are as follows:

**General Terms:**

Trade Date:	For each Transaction, the first day on which Shares are sold through the Agent (as defined below) pursuant to the Sales Agreement (as defined below) to hedge Dealer's exposure under the applicable Transaction, or another date as specified in the related Forward Placement Notice (as defined in the Sales Agreement).
Effective Date:	For each Transaction, the date that is one Settlement Cycle following the Trade Date.
Buyer:	Dealer.
Seller:	Counterparty.
Maturity Date:	For each Transaction, the earlier of (i) the date specified in the Supplemental Confirmation (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day) and (ii) the date on which the Number of Shares is reduced to zero.
Shares:	The shares of common stock, par value USD 0.01 per Share, of Counterparty (Ticker: "SUI").
Number of Shares:	For each Transaction, the Initial Number of Shares; <i>provided</i> that on each Settlement Date, the Number of Shares shall be reduced by the number of Settlement Shares for such Settlement Date.
Initial Number of Shares:	For each Transaction, as specified in the Supplemental Confirmation, to be the aggregate number of Shares sold through the Agent, acting as forward seller for Dealer pursuant to the Sales Agreement, during the period from and including the Trade Date through and including the Hedge Completion Date.
Hedge Completion Date:	For each Transaction, the date specified in the Supplemental Confirmation, to be the earliest of (i) the date as of which Dealer establishes its initial Hedge Position in respect of the Transaction, (ii) the date specified in writing as the Hedge Completion Date by Counterparty in the applicable Forward Placement Notice and (iii) the first Settlement Date.
Settlement Currency:	USD.
Exchange:	The New York Stock Exchange.
Related Exchange:	All Exchanges.
Prepayment:	Not Applicable.
Variable Obligation:	Not Applicable.

Forward Price:	<p>On the Hedge Completion Date, the Initial Forward Price, and on any day thereafter, the product of the Forward Price on the immediately preceding calendar day and</p> <p><math>1 + \text{the Daily Rate} * (1/365)</math>;</p> <p><i>provided</i> that the Forward Price on each Forward Price Reduction Date shall be the Forward Price otherwise in effect on such date <i>minus</i> the Forward Price Reduction Amount per Share for such Forward Price Reduction Date.</p>
Initial Forward Price:	For each Transaction, as specified in the Supplemental Confirmation, to be the product of (i) the Net Percentage and (ii) the Volume-Weighted Hedge Price.
Volume-Weighted Hedge Price:	For each Transaction, as specified in the Supplemental Confirmation, to be the volume weighted average of the prices at which the Shares are sold through the Agent acting as forward seller for Dealer pursuant to the Sales Agreement during the period from and including the Trade Date through and including the Hedge Completion Date, <i>provided</i> that, solely for the purposes of calculating the Initial Forward Price, each such price shall be subject to adjustment by the Calculation Agent in good faith, in a commercially reasonable manner and in the same manner as the Forward Price pursuant to the definition thereof during the period from the Trade Date through and including the Hedge Completion Date.
Net Percentage:	For each Transaction, as specified in the Supplemental Confirmation, to be equal to one <i>minus</i> the Forward Seller Commission (as defined in the Sales Agreement) for such Transaction.
Daily Rate:	For any day, the Overnight Bank Funding Rate <i>minus</i> the Spread.
Overnight Bank Funding Rate:	For any day, the rate set forth for such day opposite the caption "Overnight bank funding rate" as such rate is displayed on the page "OBFR01 <Index> <GO>" on the BLOOMBERG Professional Service, or any successor page; <i>provided</i> that if no such rate appears for such day on such page, the rate for such day will be determined by the Calculation Agent based on its estimate of the prevailing USD overnight bank funding rate for such day.
Spread:	For each Transaction, as specified in the Supplemental Confirmation and the related Forward Placement Notice.
Forward Price Reduction Dates:	For each Transaction, each date listed as such in Schedule I to the Supplemental Confirmation, and as set forth in the related Forward Placement Notice.
Forward Price Reduction Amount per Share:	For each Forward Price Reduction Date in each Transaction, the Forward Price Reduction Amount per Share set forth opposite such date on Schedule I to the Supplemental Confirmation, and as set forth in the related Forward Placement Notice.

**Valuation:**

- Valuation Date: For any Settlement (as defined below), if Physical Settlement is applicable, as designated in the relevant Settlement Notice (as defined below); or if Cash Settlement or Net Share Settlement is applicable, the last Unwind Date for such Settlement. Section 6.6 of the Equity Definitions shall not apply to any Valuation Date.
- Unwind Dates: For any Cash Settlement or Net Share Settlement, each day on which Dealer (or its agent or affiliate) purchases Shares in the market in connection with such Settlement, starting on the First Unwind Date for such Settlement and ending on the Exchange Business Day that Dealer completes the unwind of Dealer's Hedge Position.
- First Unwind Date: For any Cash Settlement or Net Share Settlement, as designated in the relevant Settlement Notice.
- Unwind Period: For any Cash Settlement or Net Share Settlement, the period starting on the First Unwind Date for such Settlement and ending on the Valuation Date for such Settlement. If any Trading Day during an Unwind Period for any Transaction is a Disrupted Day, the Calculation Agent may make commercially reasonable adjustments to the terms of such Transaction (including, without limitation, the Cash Settlement Amount, the number of Net Share Settlement Shares and the Settlement Price) to account for the occurrence of such Disrupted Day.

**Settlement Terms:**

Settlement: For each Transaction, any Physical Settlement, Cash Settlement or Net Share Settlement of all or any portion of such Transaction.

Settlement Notice: Subject to “Early Valuation” below, Counterparty may elect to effect a Settlement of all or any portion of the applicable Transaction by designating one or more Scheduled Trading Days following the Hedge Completion Date and on or prior to the Maturity Date to be Valuation Dates (or, with respect to Cash Settlements or Net Share Settlements, First Unwind Dates, each of which First Unwind Dates shall occur no later than a number of Scheduled Trading Days as specified in the Supplemental Confirmation (“**Settlement Notice Cutoff**”) immediately preceding the Maturity Date) in a written notice to Dealer delivered no later than the applicable Settlement Method Election Date (in the case of a Net Share Settlement or Cash Settlement) or the 5th Scheduled Trading Day immediately preceding the relevant Valuation Date (in the case of a Physical Settlement), which notice shall also specify (i) the number of Shares (the “**Settlement Shares**”) for such Settlement (not to exceed the number of Undesignated Shares as of the date of such Settlement Notice) and (ii) the Settlement Method applicable to such Settlement; *provided* that (A) Counterparty may not designate a First Unwind Date for a Cash Settlement or a Net Share Settlement if, as of the date of such Settlement Notice, any Shares have been designated as Settlement Shares for a Cash Settlement or a Net Share Settlement for which the related Relevant Settlement Date has not occurred; and (B) if the Number of Shares as of the Maturity Date is not zero, then the Maturity Date shall be a Valuation Date for a Physical Settlement and the number of Settlement Shares for such Settlement shall be the Number of Shares as of the Maturity Date (*provided* that if the Maturity Date occurs during any Unwind Period, then the provisions set forth below opposite “Early Valuation” shall apply as if the Maturity Date were the Early Valuation Date).

Undesignated Shares:

For each Transaction, as of any date, the Number of Shares *minus* the number of Shares designated as Settlement Shares for Settlements for which the related Relevant Settlement Date has not occurred.

Settlement Method Election:

Applicable; *provided* that, for each Transaction:

(i) Net Share Settlement shall be deemed to be included as an additional settlement method under Section 7.1 of the Equity Definitions;

(ii) Counterparty may elect Cash Settlement or Net Share Settlement only if Counterparty represents and warrants to Dealer in the Settlement Notice containing such election that, as of the date of such Settlement Notice, (A) Counterparty is not aware of any material nonpublic information concerning itself or the Shares, (B) Counterparty is electing the settlement method and designating the First Unwind Date specified in such Settlement Notice in good faith and not as part of a plan or scheme to evade compliance with Rule 10b-5 under the Exchange Act ("**Rule 10b-5**") or any other provision of the federal securities laws, (C) Counterparty is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")), (D) Counterparty would be able to purchase a number of Shares equal to (x) the number of Settlement Shares designated in such Settlement Notice, in case of an election of Cash Settlement, or (y) a number of Shares with a value as of the date of such Settlement Notice equal to the product of (I) such number of Settlement Shares and (II) the then-current Forward Price, in case of an election of Net Share Settlement, in compliance with the laws of Counterparty's jurisdiction of organization, (E) it is not electing Cash Settlement or Net Share Settlement to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) and (F) such election, and settlement in accordance therewith, does not and will not violate or conflict with any law, regulation or supervisory guidance applicable to Counterparty, or any order or judgment of any court or other agency of government applicable to it or any of its assets, and any governmental consents that are required to have been obtained by Counterparty with respect to such election or settlement have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(iii) Notwithstanding any election to the contrary in any Settlement Notice, Physical Settlement shall be applicable:



- (A) to all of the Settlement Shares designated in such Settlement Notice if, on the date such Settlement Notice is received by Dealer, (I) the trading price per Share on the Exchange (as determined by the Calculation Agent in a commercially reasonable manner) is below 80% of the Initial Forward Price (the “**Threshold Price**”) or (II) Dealer, as Hedging Party, determines, in its reasonable good faith judgment, after using commercially reasonable efforts, that it would be unable to purchase a number of Shares in the market sufficient to unwind its commercially reasonable Hedge Position in respect of the portion of the applicable Transaction represented by such Settlement Shares and satisfy its delivery obligation hereunder, if any, by the Maturity Date (taking into account any additional share forward or other equity derivative transaction (each, an “**Additional Equity Derivative Transaction**”) Counterparty has entered into) (x) in a manner that (A) would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be subject to the safe harbor provided by Rule 10b-18(b) under the Exchange Act and (B) based on advice of counsel, would not raise material risks under applicable securities laws or (y) due to the lack of sufficient liquidity in the Shares (each, a “**Trading Condition**”); or
- (B) to all or a portion of the Settlement Shares designated in such Settlement Notice if, on any day during the relevant Unwind Period, (I) the trading price per Share on the Exchange (as determined by the Calculation Agent in a commercially reasonable manner) is below the Threshold Price or (II) Dealer, as Hedging Party, determines, in its good faith, reasonable judgment, that a Trading Condition has occurred, in which case the provisions set forth below in the fourth paragraph opposite “Early Valuation” shall apply as if such day were the Early Valuation Date and (x) for purposes of clause (i) of such paragraph, such day shall be the last Unwind Date of such Unwind Period and the “Unwound Shares” shall be calculated to, and including, such day and (y) for purposes of clause (ii) of such paragraph, the “Remaining Shares” shall be equal to the number of Settlement Shares designated in such Settlement Notice *minus* the Unwound Shares determined in accordance with clause (x) of this sentence.

Electing Party:

Counterparty.

Settlement Method Election Date:

With respect to any Settlement, the 5th Scheduled Trading Day immediately preceding (x) the Valuation Date, in the case of Physical Settlement, or (y) the First Unwind Date, in the case of Cash Settlement or Net Share Settlement.

Default Settlement Method:

Physical Settlement.

Physical Settlement: Notwithstanding Section 9.2(a)(i) of the Equity Definitions, on the Settlement Date, Dealer shall pay to Counterparty an amount equal to the Forward Price on the relevant Valuation Date *multiplied by* the number of Settlement Shares for such Settlement, and Counterparty shall deliver to Dealer such Settlement Shares. If, on any Settlement Date, the Settlement Shares to be delivered by Counterparty to Dealer hereunder are not so delivered (the “**Deferred Shares**”), and a Forward Price Reduction Date occurs during the period from, and including, such Settlement Date to, but excluding, the date such Settlement Shares are actually delivered to Dealer, then the portion of the amount payable by Dealer to Counterparty in respect of the Deferred Shares shall be reduced by an amount equal to the Forward Price Reduction Amount for such Forward Price Reduction Date, multiplied by the number of Deferred Shares.

Settlement Date: The Valuation Date.

Net Share Settlement: If Net Share Settlement applies, on the Net Share Settlement Date, if the Net Share Settlement Amount is greater than zero, Counterparty shall deliver a number of Shares equal to the Net Share Settlement Amount (rounded down to the nearest integer) to Dealer, and if the Net Share Settlement Amount is less than zero, Dealer shall deliver a number of Shares equal to the absolute value of the Net Share Settlement Amount (rounded down to the nearest integer) to Counterparty, in either case, in accordance with Section 9.4 of the Equity Definitions, with the Net Share Settlement Date deemed to be a “Settlement Date” for purposes of such Section 9.4, and, in either case, plus cash in lieu of any fractional Shares included in the Net Share Settlement Amount but not delivered due to rounding required hereby, valued at the Settlement Price.

Net Share Settlement Date: The date that follows the Valuation Date by one Settlement Cycle.

Net Share Settlement Amount: For any Net Share Settlement, an amount equal to (i) the Forward Cash Settlement Amount *divided by* the Settlement Price *plus* (ii) a number of Shares, valued at the Settlement Price (determined as if, solely for purposes of this clause (ii), the reference to the phrase “on each Unwind Date during the Unwind Period relating to such Settlement” in the definition of “Settlement Price” were instead deemed to refer, in respect of any relevant Forward Price Reduction Date, to the phrase “during a commercially reasonable period of time corresponding to the relevant Forward Price Reduction Date in order to account for the related Forward Price Reduction Amount during such period”), equal to the aggregate Unwind Adjustment Amount(s), if any, for the relevant Unwind Period, as determined by the Calculation Agent.

Forward Cash Settlement Amount: Notwithstanding Section 8.5(c) of the Equity Definitions, the Forward Cash Settlement Amount for any Cash Settlement or Net Share Settlement shall be equal to (i) the number of Settlement Shares for such Settlement *multiplied by* (ii) an amount equal to (A) the Settlement Price *minus* (B) the Relevant Forward Price.

Relevant Forward Price:	For any Cash Settlement or Net Share Settlement, as determined by the Calculation Agent, the weighted average Forward Price per Share on each Unwind Date during the Unwind Period relating to such Settlement (weighted based on the number of Shares purchased by Dealer or its agent or affiliate in connection with unwinding its Hedge Position in connection on each such Unwind Date in connection with such Settlement).
Settlement Price:	<p>For any Cash Settlement or Net Share Settlement, as determined by the Calculation Agent, the weighted average price per Share of the purchases of Shares made by Dealer (or its agent or affiliate) on each Unwind Date during the Unwind Period relating to such Settlement (weighted based on the number of Shares purchased by Dealer or its agent or affiliate at each such price per Share in connection with unwinding its Hedge Position in connection with such Settlement), <i>plus</i> up to USD 0.02 per Share.</p> <p>The times and prices at which Dealer (or its agent or affiliate) purchases any Shares during any Unwind Period in connection with unwinding its Hedge Position shall be determined by Dealer in a commercially reasonable manner. Without limiting the generality of the foregoing, in the event that Dealer concludes, in its good faith and reasonable discretion based upon advice of counsel, that it is appropriate with respect to any legal, regulatory or self-regulatory requirements or related policies and procedures generally applicable in similar situations and applied in a non-discriminatory manner (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer) for it, as Hedging Party, to refrain from purchasing Shares on any Scheduled Trading Day (a “<b>Regulatory Disruption</b>”), that would have been an Unwind Date but for the occurrence of a Regulatory Disruption, Dealer shall notify Counterparty in writing that a Regulatory Disruption has occurred on such Scheduled Trading Day without specifying (and Dealer shall not otherwise communicate to Counterparty) the nature of such Regulatory Disruption, and, for the avoidance of doubt, such Scheduled Trading Day shall not be an Unwind Date and such Regulatory Disruption shall be deemed to be a Market Disruption Event.</p>
Relevant Settlement Date:	For any Settlement, the Settlement Date, Cash Settlement Payment Date or Net Share Settlement Date, as the case may be.
Unwind Adjustment Amount:	For any Net Share Settlement, for any Forward Price Reduction Date that occurs during the period from, and including, the date one Settlement Cycle immediately following the relevant First Unwind Date to, and including, the date one Settlement Cycle immediately following the relevant Valuation Date, an amount determined by the Calculation Agent equal to the product of (i) the Forward Price Reduction Amount per Share for such Forward Price Reduction Date <i>multiplied by</i> (ii)(A) if the Net Share Settlement Amount calculated as of the date immediately prior to the relevant Forward Price Reduction Date is a positive number, such Net Share Settlement Amount or (B) otherwise, zero.
Settlement Currency:	USD.

Other Applicable Provisions: To the extent Dealer or Counterparty is obligated to deliver Shares hereunder, the provisions of Sections 9.2 (last sentence only), 9.8, 9.9, 9.10 and 9.11 of the Equity Definitions will be applicable as if “Physical Settlement” applied to the applicable Transaction; *provided* that, in such case, with respect to any delivery of Shares by Dealer the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws that exist as a result of the fact that Counterparty is the issuer of the Shares. In addition, to the extent Counterparty is obligated to deliver Shares hereunder, the provisions of Section 9.12 of the Equity Definitions will be applicable as if “Physical Settlement” applied to such Transaction.

**Share Adjustments:**

Potential Adjustment Events: An Extraordinary Dividend shall not constitute a Potential Adjustment Event.

Extraordinary Dividend: For each Transaction, any dividend or distribution on the Shares with an ex-dividend date occurring on any day following the Trade Date (other than (i) any dividend or distribution of the type described in Section 11.2(e)(i) or Section 11.2(e)(ii)(A) of the Equity Definitions or (ii) a regular, quarterly cash dividend (x) in an amount per Share equal to or less than the Forward Price Reduction Amount corresponding to such quarter and (y) the ex-dividend date for which is no earlier than the Forward Price Reduction Date corresponding to such quarter).

Method of Adjustment: Calculation Agent Adjustment.

**Extraordinary Events:**

Extraordinary Events: The consequences that would otherwise apply under Article 12 of the Equity Definitions to any applicable Extraordinary Event (excluding any Failure to Deliver, Increased Cost of Hedging, Increased Cost of Stock Borrow or any Extraordinary Event that also constitutes a Bankruptcy Termination Event (as defined below), but including, for the avoidance of doubt, any other applicable Additional Disruption Event) shall not apply.

Merger Event: Applicable; *provided* that Section 12.1(b) of the Equity Definitions is hereby amended by deleting the remainder of such Section beginning with the words “in each case if the Merger Date is on or before” in the fourth to last line thereof.

Tender Offer: Applicable; *provided* that Section 12.1(d) of the Equity Definitions shall be amended by replacing the reference therein to “10%” with a reference to “15%”.

Delisting: In addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall be deemed to be the Exchange.

**Additional Disruption Events:**

Change in Law: Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended (i) by replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, and (ii) by adding the phrase “and/or Hedge Position” after the word “Shares” in clause (X) thereof ; and *provided further*, that (i) any determination as to whether (A) the adoption of or any change in any applicable law or regulation (including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute) or (B) the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), in each case, constitutes a “Change in Law” shall be made without regard to Section 739 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, and (ii) Section 12.9(a)(ii) of the Equity Definitions is hereby amended by replacing the parenthetical beginning after the word “regulation” in the second line thereof with the phrase “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute)”.

Failure to Deliver: Applicable if Dealer is required to deliver Shares hereunder; otherwise, Not Applicable.

Hedging Disruption: Applicable.

Increased Cost of Hedging: Applicable; *provided* that Section 12.9(b)(vi) of the Equity Definitions shall be amended by (i) deleting clause (C) of the second sentence thereof and (ii) deleting the third and fourth sentences thereof.

Increased Cost of Stock Borrow:	Applicable; <i>provided</i> that Section 12.9(b)(v) of the Equity Definitions shall be amended by (i) deleting clause (C) of the second sentence thereof and (ii) deleting the third, fourth and fifth sentences thereof. For the avoidance of doubt, upon the public announcement of any event that, if consummated, would result in a Merger Event or Tender Offer, the term “rate to borrow Shares” as used in Section 12.9(a)(viii) of the Equity Definitions shall include, without duplication, any commercially reasonable cost borne or amount payable by the Hedging Party in respect of maintaining or reestablishing its Hedge Position, including, but not limited to, any assessment or other amount payable by the Hedging Party to a lender of Shares in respect of any merger or tender offer premium, as applicable.
Initial Stock Loan Rate:	For each Transaction, as specified in the Supplemental Confirmation and the related Forward Placement Notice.
Loss of Stock Borrow:	Applicable; <i>provided</i> that Section 12.9(b)(iv) of the Equity Definitions shall be amended by (i) deleting clause (A) of the first sentence thereof in its entirety and (ii) deleting the words “neither the Non-Hedging Party nor the Lending Party lends Shares in the amount of the Hedging Shares or” in the second sentence thereof.
Maximum Stock Loan Rate:	For each Transaction, as specified in the Supplemental Confirmation and the related Forward Placement Notice.
Hedging Party:	For all applicable Additional Disruption Events, Dealer.

Determining Party:

For all applicable Extraordinary Events, Dealer.

**Early Valuation:**

Early Valuation:

For each Transaction, notwithstanding anything to the contrary herein, in the Supplemental Confirmation, the Agreement or in the Equity Definitions, at any time (x) concurrently with or following the occurrence of a Hedging Event, the declaration by Issuer of an Extraordinary Dividend, or an ISDA Event or (y) if an Excess Section 13 Ownership Position (as defined below), an Excess Charter Ownership Position (as defined below) or an Excess Regulatory Ownership Position (as defined below) exists, in either case, Dealer (or, in the case of an ISDA Event that is an Event of Default or Termination Event, the party entitled to designate an Early Termination Date in respect of such event pursuant to Section 6 of the Agreement) shall have the right to designate any Scheduled Trading Day to be the "Early Valuation Date", in which case the provisions set forth in this "Early Valuation" section shall apply, in the case of an Event of Default or Termination Event, in lieu of Section 6 of the Agreement. For the avoidance of doubt, any amount calculated in connection with an "Early Valuation" (in respect of which Counterparty satisfies its payment and/or delivery obligations under this "Early Valuation" section) as a result of an Extraordinary Dividend shall not be adjusted by the value associated with such Extraordinary Dividend.

If the Early Valuation Date occurs on a date that is not during an Unwind Period, then the Early Valuation Date shall be a Valuation Date for a Physical Settlement, and the number of Settlement Shares for such Physical Settlement shall be the Number of Shares on such Early Valuation Date; *provided* that Dealer may in its good faith and reasonable discretion elect to permit Counterparty to elect Cash Settlement or Net Share Settlement, in which case Dealer, as Hedging Party, will determine, in good faith and in a commercially reasonable manner, the Scheduled Trading Day that will be the First Unwind Date for such Cash Settlement or Net Share Settlement.

If the Early Valuation Date occurs during an Unwind Period, then (i) (A) the last Unwind Date of such Unwind Period shall be deemed to occur on the Early Valuation Date, (B) a Settlement shall occur in respect of such Unwind Period, to which the Settlement Method elected by Counterparty in respect of such Settlement shall apply (subject to the provisions under "Settlement Terms" above in respect of the applicable Settlement Method), and (C) the number of Settlement Shares for such Settlement shall be the number of Unwound Shares for such Unwind Period on the Early Valuation Date, and (ii) (A) the Early Valuation Date shall be a Valuation Date for an additional Physical Settlement (*provided* that Dealer may in its good faith and reasonable discretion elect that the Settlement Method elected by Counterparty for the Settlement described in clause (i) of this sentence shall apply, in which case Dealer, in its good faith and in a commercially reasonable manner, will determine the Scheduled Trading Day that will be the First Unwind Date for such Cash Settlement or Net Share Settlement) and (B) the number of Settlement Shares for such additional Settlement shall be the number of Remaining Shares on the Early Valuation Date.

Notwithstanding the foregoing, in the case of a Nationalization or Merger Event, if at the time of the related Settlement Date or Net Share Settlement Date, as applicable, the Shares have changed into cash or any other property or the right to receive cash or any other property, the Calculation Agent may adjust the terms of the applicable Transaction as appropriate to account for such change to the nature of the Shares.

If, upon designation of an Early Valuation Date by Dealer pursuant to this section, Counterparty fails to deliver the Settlement Shares relating to such Early Valuation Date when due, it shall be an Event of Default with respect to Counterparty and Section 6 of the Agreement shall apply.

ISDA Event:

(i) Any Event of Default or Termination Event, other than an Event of Default or Termination Event that also constitutes a Bankruptcy Termination Event, that gives rise to the right of either party to designate an Early Termination Date pursuant to Section 6 of the Agreement or (ii) the announcement of any event or transaction that, if consummated, would result in a Merger Event, Tender Offer, Nationalization, Delisting or Change in Law, in each case, as determined by the Calculation Agent.

Hedging Event:

(i) A Loss of Stock Borrow or Hedging Disruption, (ii) (A) an Increased Cost of Stock Borrow or (B) an Increased Cost of Hedging, in the case of sub-clause (A) or (B), in connection with which Counterparty does not elect, and so notify the Hedging Party of its election, in each case, within the required time period to either amend the applicable Transaction pursuant to Section 12.9(b)(v)(A) or Section 12.9(b)(vi)(A) of the Equity Definitions, as applicable, or pay an amount determined by the Calculation Agent that corresponds to the relevant Price Adjustment pursuant to Section 12.9(b)(v)(B) or Section 12.9(b)(vi)(B) of the Equity Definitions, as applicable, or (iii) the occurrence of a Market Disruption Event during an Unwind Period and the continuance of such Market Disruption Event for at least eight Scheduled Trading Days.



Remaining Shares: For each Transaction, on any day, the Number of Shares as of such day (or, if such day occurs during an Unwind Period, the Number of Shares as of such day *minus* the Unwound Shares for such Unwind Period on such day).

Unwound Shares: For any Unwind Period on any day, the aggregate number of Shares with respect to which Dealer has unwound its Hedge Position in respect of the applicable Transaction in connection with the related Settlement as of such day, as determined by Dealer, as Hedging Party, acting in good faith and a commercially reasonable manner.

**Acknowledgements:**

Non-Reliance: Applicable.

Agreements and Acknowledgements Regarding Hedging Activities: Applicable.

Additional Acknowledgements: Applicable.

**Transfer:** Dealer may assign or transfer any of its rights or delegate any of its duties hereunder, in whole or in part, to any affiliate of Dealer; *provided* that under the applicable law effective on the date of such transfer or assignment, Counterparty will not be required, as a result of such transfer or assignment, to pay to the transferee an amount in respect of an Indemnifiable Tax greater than the amount, if any, that Counterparty would have been required to pay Dealer in the absence of such transfer or assignment; and Counterparty will not receive a payment from which an amount has been withheld or deducted, on account of a Tax in respect of which the other party is not required to pay an additional amount, unless Counterparty would not have been entitled to receive any additional amount in respect of such payment in the absence of such transfer or assignment; *provided further* that (A) the affiliate's obligations hereunder are fully and unconditionally guaranteed by Dealer or Dealer's Parent or (B) the affiliate's long-term issuer rating is equal to or better than the credit rating of Dealer at the time of such assignment or transfer; and *provided further* that no Termination Event with respect to which Dealer is the Defaulting Party or an Affected Party, as the case may be, exists or would result therefrom, and no Extraordinary Event, Early Valuation, Market Disruption Event, ISDA Event, Excess Section 13 Ownership Position or Excess Regulatory Ownership Position or other event or circumstance giving rise to a right or responsibility to terminate or cancel a Transaction or to make an adjustment to the terms of a Transaction would result therefrom. Notwithstanding any other provision in this Master Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of any Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

Calculation Agent:

Dealer. Notwithstanding anything to the contrary in the Agreement, the Equity Definitions, the Swap Definitions or this Master Confirmation, whenever the Calculation Agent or Determining Party is required to act or to exercise judgment or discretion with respect to a Transaction pursuant to the Confirmation (including, without limitation, by making calculations, adjustments or determinations with respect to such Transaction but not, for the avoidance of doubt, with respect to any election it is entitled to make), it will do so in good faith and in a commercially reasonable manner. Dealer shall, within five Exchange Business Days of a written request by Counterparty, provide a written explanation (which may be by e-mail) of any judgment, calculation, adjustment or determination made by Dealer, as to such Transaction, in its capacity as Calculation Agent or Determining Party, including, where applicable, a description of the methodology and the basis for such judgment, calculation, adjustment or determination in reasonable detail, it being agreed and understood that Dealer shall not be obligated to disclose any confidential or proprietary models or other information that Dealer believes to be confidential, proprietary or subject to contractual, legal or regulatory obligations not to disclose such information, in each case, used by it for such judgment, calculation, adjustment or determination.

Counterparty Payment

Instructions:

To be provided by Counterparty.

Dealer Payment Instructions:

To be provided by Dealer.

Counterparty's Contact Details  
for Purpose of Giving Notice:

To be provided by Counterparty.

Dealer's Contact Details  
for Purpose of Giving Notice:

To be provided by Dealer.

### 3. Effectiveness.

Each Transaction shall be effective if and only if Shares are sold by [AGENT NAME], acting as forward seller for Dealer (in such capacity, the "**Agent**"), on or after the Trade Date and on or before the Hedge Completion Date pursuant to the At the Market Offering Sales Agreement, dated December [ ], 2021 between Dealer, Counterparty, the Agent and the other parties thereto (the "**Sales Agreement**"). If the Sales Agreement is terminated prior to any such sale of Shares thereunder, the parties shall have no further obligations in connection with the applicable Transaction, other than in respect of breaches of representations or covenants on or prior to such date. For the avoidance of doubt, if the Sales Agreement is terminated prior to the Hedge Completion Date, this Master Confirmation and the related Supplemental Confirmation shall remain in effect with respect to any Shares that had been sold by the Agent acting as forward seller for Dealer on or after the Trade Date and prior to such termination.

### 4. Additional Mutual Representations and Warranties.

In addition to the representations and warranties in the Agreement, each party represents and warrants to the other party, as of the date hereof and as of each date of Forward Placement Notice (as defined in the Sales Agreement), Trade Date and Forward Settlement Date (as defined in the Sales Agreement) that it is an "eligible contract participant", as defined in Section 1a(18) of the Commodity Exchange Act (as amended), and an "accredited investor" as defined in Section 2(a)(15)(ii) of the Securities Act of 1933 (as amended) (the "**Securities Act**"), and is entering into each Transaction hereunder as principal and not on behalf of any third party.

## 5. Additional Representations and Warranties of Counterparty.

In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to Dealer, and agrees with Dealer, as of the date hereof and as of each date of Forward Placement Notice (as defined in the Agreement), each Trade Date, Forward Settlement Date and as of each Hedge Completion Date, that:

(a) without limiting the generality of Section 13.1 of the Equity Definitions, it acknowledges that Dealer is not making any representations or warranties with respect to the treatment of any Transaction, including without limitation ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, FASB Statements 128, 133, as amended, 149 or 150, EITF 00-19, 01-6, 03-6 or 07-5, ASC Topic 480, *Distinguishing Liabilities from Equity*, ASC 815-40, *Derivatives and Hedging — Contracts in Entity's Own Equity* (or any successor issue statements) or under the Financial Accounting Standards Board's Liabilities & Equity Project;

(b) prior to each Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty's board of directors, or duly authorized committee thereof, authorizing the applicable Transaction;

(c) it shall not take any action to reduce or decrease the number of authorized and unissued Shares below the sum of (i) the Capped Number (as defined below) across all Transactions hereunder plus (ii) the total number of Shares issuable upon settlement (whether by net share settlement or otherwise) of any other transaction or agreement to which it is a party;

(d) it will not repurchase any Shares if, immediately following such repurchase, the Number of Shares Percentage (as defined below) would alone or in the aggregate be equal to or greater than 4.5% of the number of then-outstanding Shares, and it will notify Dealer immediately upon the announcement or consummation of any repurchase of Shares in an amount that, taken together with the amount of all repurchases since the date of the last such notice (or, if no such notice has been given, since the first Trade Date), exceeds 0.5% of the number of then-outstanding Shares; the "**Number of Shares Percentage**" as of any day is the fraction of (1) the numerator of which is the aggregate of the Number of Shares for each Transaction and each "Number of Shares" or comparable amount under any Additional Equity Derivative Transaction and (2) the denominator of which is the number of Shares outstanding on such day;

(e) it is not entering into this Master Confirmation or any Supplemental Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares);

(f) (i) neither it nor any of its officers or directors is aware of any material non-public information regarding itself or the Shares; (ii) it is entering into this Master Confirmation (and any Supplemental Confirmation) and will provide any Settlement Notice in good faith and not as part of a plan or scheme to evade compliance with Rule 10b-5 or any other provision of the federal securities laws; (iii) it has not entered into or altered any hedging transaction relating to the Shares corresponding to or offsetting any Transaction; and (iv) it has consulted with its own advisors as to the legal aspects of its adoption and implementation of this Master Confirmation and any Supplemental Confirmation under Rule 10b5-1 under the Exchange Act ("**Rule 10b5-1**");

(g) it is in compliance with its reporting obligations under the Exchange Act, and its most recent Annual Report on Form 10-K, together with all reports subsequently filed by it pursuant to the Exchange Act, taken together and as amended and supplemented to the date of this representation, do not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(h) no federal, state or local (including, non-U.S. jurisdictions) law, rule, regulation or regulatory order applicable specifically to the Shares (and not generally to ownership of equity securities by a financial institution that is not generally applicable to holders of the Shares) would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares in connection with any Transaction in accordance with the terms of the applicable Confirmation and the Agreement;

(i) as of each Trade Date and as of the date of any payment or delivery by Counterparty or Dealer hereunder, it is not and will not be "insolvent" (as such term is defined under Section 101(32) of the Bankruptcy Code);

(j) it is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended;

(k) it: (i) is an “institutional account” as defined in FINRA Rule 4512(c), (ii) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities, (iii) will exercise independent judgment in evaluating any recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (iv) has total assets of at least USD 50 million;

(l) it understands, agrees and acknowledges that no obligations of Dealer to it hereunder shall be entitled to the benefit of deposit insurance and that such obligations shall not be guaranteed by any affiliate of Dealer (subject to Section 8(b) of this Master Confirmation) or any governmental agency;

(m) ownership positions held by Dealer or any of its affiliates solely in its capacity as a nominee or fiduciary (i) do not constitute “ownership” by Dealer and (ii) shall not result in Dealer being deemed or treated as the “owner” of such positions, in each case for purposes of Counterparty’s Articles of Restatement, as amended and supplemented from time to time (the “**Charter**”);

(n) IT UNDERSTANDS THAT EACH TRANSACTION IS SUBJECT TO COMPLEX RISKS WHICH MAY ARISE WITHOUT WARNING AND MAY AT TIMES BE VOLATILE AND THAT LOSSES MAY OCCUR QUICKLY AND IN UNANTICIPATED MAGNITUDE AND IS WILLING TO ACCEPT SUCH TERMS AND CONDITIONS AND ASSUME (FINANCIALLY AND OTHERWISE) SUCH RISKS; and

(o) in connection with this Master Confirmation, each Supplemental Confirmation, the Sales Agreement, each Transaction and the other transactions contemplated hereunder and thereunder (the “**Relevant Transactions**”), Counterparty acknowledges that none of Dealer and/or its affiliates is advising Counterparty or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction (for the avoidance of doubt, notwithstanding any advisory relationship that Dealer and/or its affiliates may have, or may have had in the past, with Counterparty and/or its affiliates). Counterparty shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the Relevant Transactions, and none of Dealer and/or its affiliates shall have any responsibility or liability to Counterparty with respect thereto. Any review by the Dealer and/or its affiliates of Counterparty, the Relevant Transactions or other matters relating to the Relevant Transactions will be performed solely for the benefit of Dealer and/or its affiliates, as the case may be, and shall not be on behalf of Counterparty. Counterparty waives to the full extent permitted by applicable law any claims it may have against Dealer and/or its affiliates arising from an alleged breach of fiduciary duty in connection with the Relevant Transactions.

## 6. Additional Covenants of Counterparty.

(a) Counterparty acknowledges and agrees that any Shares delivered by Counterparty to Dealer on any Settlement Date or Net Share Settlement Date will be (i) newly issued, (ii) approved for listing or quotation on the Exchange, subject to official notice of issuance, and (iii) registered under the Exchange Act, and, when delivered by Dealer (or an affiliate of Dealer) to securities lenders from whom Dealer (or an affiliate of Dealer) borrowed Shares in connection with hedging its exposure to the applicable Transaction, will be freely saleable without further registration or other restrictions under the Securities Act in the hands of those securities lenders, irrespective of whether any such stock loan is effected by Dealer or an affiliate of Dealer. Accordingly, Counterparty agrees that any Shares so delivered will not bear a restrictive legend and will be deposited in, and the delivery thereof shall be effected through the facilities of, the Clearance System. In addition (and without limitation of the representations and warranties of Counterparty made pursuant to Section 9.11 of the Equity Definitions), Counterparty represents and agrees that any such Shares have been (or will have been) duly authorized and shall be, upon delivery, duly and validly authorized, issued and outstanding, fully paid and non-assessable, free of any lien, charge, claim or other encumbrance. Counterparty agrees and acknowledges that such approval for listing or quotation on the Exchange shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement in respect of the relevant Transaction.

(b) Counterparty agrees that Counterparty shall not enter into or alter any hedging transaction relating to the Shares corresponding to or offsetting any Transaction. Without limiting the generality of the provisions set forth under the caption “Settlement Terms” in Section 2 of this Master Confirmation, Counterparty acknowledges and agrees that it will not seek to control or influence Dealer’s decision to make any “purchases or sales” (within the meaning of Rule 10b5-1(c)(1)(i)(B)(3)) under or in connection with any Transaction, including, without limitation, Dealer’s decision to enter into any hedging transactions.

(c) Counterparty acknowledges and agrees that any amendment, modification, waiver or termination of this Master Confirmation or any Supplemental Confirmation must be effected in accordance with the requirements for the amendment or termination of a “plan” as defined in Rule 10b5-1(c) under the Exchange Act. Without limiting the generality of the foregoing, any such amendment, modification, waiver or termination shall be made in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b-5, and no such amendment, modification or waiver shall be made at any time at which Counterparty is aware of any material non-public information regarding Counterparty or the Shares.

(d) Counterparty shall promptly provide notice to Dealer (in which notice Counterparty will be deemed to make the representation and warranty set forth in Section 5(f)(i) of this Master Confirmation as of the date of such notice) promptly after (i) the occurrence of any event that would constitute an Event of Default, or a Termination Event in respect of which Counterparty is a Defaulting Party or an Affected Party, as the case may be, and (ii) the making of any public announcement by Counterparty of any event that, if consummated, would constitute an Extraordinary Event or Potential Adjustment Event.

(e) Neither Counterparty nor any of its “affiliated purchasers” (as defined by Rule 10b-18 under the Exchange Act (“**Rule 10b-18**”)) shall take any action that would cause any purchases of Shares by Dealer or any of its Affiliates in connection with any Cash Settlement or Net Share Settlement not to meet the requirements of the safe harbor provided by Rule 10b-18 if such purchases were made by Counterparty. Without limiting the generality of the foregoing, during any Unwind Period, except with the prior written consent of Dealer, Counterparty will not, and will cause its affiliated purchasers (as defined in Rule 10b-18) not to, directly or indirectly (including, without limitation, by means of a derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or announce or commence any tender offer relating to, any Shares (or equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable for the Shares.

(f) Counterparty will not take, or permit to be taken, any action to cause any “restricted period” (as such term is defined in Regulation M promulgated under the Exchange Act (“**Regulation M**”)) to occur in respect of Shares or any security with respect to which the Shares are a “reference security” (as such term is defined in Regulation M) during any Unwind Period.

(g) Counterparty shall: (i) prior to the opening of trading in the Shares on any day on which Counterparty makes, or expects to be made, any public announcement (as defined in Rule 165(f) under the Securities Act) of any Merger Transaction, notify Dealer of such public announcement; (ii) promptly notify Dealer following any such announcement that such announcement has been made; (iii) promptly (but in any event prior to the next opening of the regular trading session on the Exchange) provide Dealer with written notice specifying (A) Counterparty’s average daily Rule 10b-18 Purchases (as defined in Rule 10b-18) during the three full calendar months immediately preceding the announcement date for the Merger Transaction that were not effected through Dealer or its affiliates and (B) the number of Shares purchased pursuant to the proviso in Rule 10b-18(b)(4) under the Exchange Act for the three full calendar months preceding such announcement date. Such written notice shall be deemed to be a certification by Counterparty to Dealer that such information is true and correct. In addition, Counterparty shall promptly notify Dealer of the earlier to occur of the completion of such transaction and the completion of the vote by target shareholders. Counterparty acknowledges that under the terms of any Confirmation, any such notice may result in a Regulatory Disruption, a Trading Condition or an Early Valuation or may affect the length of any ongoing Unwind Period; accordingly, Counterparty acknowledges that its delivery of such notice shall comply with the standards set forth in Section 6(c) of this Master Confirmation. “**Merger Transaction**” means any merger, acquisition or similar transaction involving a recapitalization with respect to the Counterparty and/or the Shares as contemplated by Rule 10b-18(a)(13)(iv) under the Exchange Act.

(h) Counterparty represents and warrants to, and agrees with, Dealer that Counterparty has not and will not, without the prior written consent of Dealer, enter into any structured share purchase or sale transaction (including the purchase or sale of any option or combination of options relating to the Shares), or any other transaction similar to any Transaction described herein, where any valuation period (however defined) in such other transaction will overlap at any time (including as a result of acceleration, postponement or extension in such

valuation period as provided in the relevant agreement) with any Unwind Period under any Confirmation. In the event that the valuation period in any such other transaction overlaps with any Unwind Period under any Confirmation as a result of any acceleration, postponement or extension of such Unwind Period, Counterparty shall promptly amend such transaction to avoid any such overlap.

#### 7. Termination on Bankruptcy.

The parties hereto agree that, notwithstanding anything to the contrary in the Agreement or the Equity Definitions, each Transaction constitutes a contract to issue a security of Counterparty as contemplated by Section 365(c)(2) of the Bankruptcy Code and that each Transaction and the obligations and rights of Counterparty and Dealer (except for any liability as a result of breach of any of the representations or warranties provided by Counterparty in Section 4 or Section 5 of this Master Confirmation) shall immediately terminate, without the necessity of any notice, payment (whether directly, by netting or otherwise) or other action by Counterparty or Dealer, if, on or prior to the relevant final Settlement Date, Cash Settlement Payment Date or Net Share Settlement Date, an Insolvency Filing occurs or any other proceeding commences with respect to Counterparty under the Bankruptcy Code (a “**Bankruptcy Termination Event**”).

#### 8. Additional Provisions.

(a) Dealer acknowledges and agrees that Counterparty’s obligations under the Transactions are not secured by any collateral and that no Confirmation is intended to convey to Dealer rights with respect to the transactions contemplated thereby that are senior to the claims of common stockholders in any U.S. bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer’s right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to any Confirmation or the Agreement; *provided further* that nothing herein shall limit or shall be deemed to limit Dealer’s rights in respect of any transaction other than the Transactions.

(b) [Reserved.]

(c) The parties hereto intend for:

(i) each Transaction to be a “securities contract” as defined in Section 741(7) of the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(27), 362(o), 546(e), 546(j), 555 and 561 of the Bankruptcy Code;

(ii) the rights given to Dealer pursuant to “Early Valuation” in Section 2 of this Master Confirmation to constitute “contractual rights” to cause the liquidation of a “securities contract” and to set off mutual debts and claims in connection with a “securities contract”, as such terms are used in Sections 555 and 362(b)(6) of the Bankruptcy Code;

(iii) any cash, securities or other property provided as performance assurance, credit support or collateral with respect to any Transaction to constitute “margin payments” and “transfers” under a “securities contract” as defined in the Bankruptcy Code;

(iv) all payments for, under or in connection with any Transaction, all payments for Shares and the transfer of Shares to constitute “settlement payments” and “transfers” under a “securities contract” as defined in the Bankruptcy Code; and

(v) any or all obligations that either party has with respect to any Confirmation or the Agreement to constitute property held by or due from such party to margin, guaranty or settle obligations of the other party with respect to the transactions under the Agreement (including each Transaction) or any other agreement between such parties.

(d) Notwithstanding any other provision of the Agreement or any Confirmation, in no event will Counterparty be required to deliver in the aggregate in respect of all Settlement Dates, Net Share Settlement Dates or other dates on which Shares are delivered in respect of any amount owed under any Confirmation a number of Shares greater than one and a half (1.5) times the Initial Number of Shares (as adjusted for stock splits and similar events) (the “**Capped Number**”). The Capped Number shall be subject to adjustment only on account of (x) Potential Adjustment Events of the type specified in (1) Sections 11.2(e)(i) through (vi) of the Equity Definitions or (2) Section 11.2(e)(vii) of the Equity Definitions so long as, in the case of this sub-clause (2), such event is within Counterparty’s control, (y) Merger Events requiring corporate action of Counterparty (or any surviving

entity of the Issuer hereunder in connection with any such Merger Event) and (z) Announcement Events that are not outside Counterparty's control. Counterparty represents and warrants to Dealer (which representation and warranty shall be deemed to be repeated on each day that any Transaction is outstanding) that the Capped Number is equal to or less than the number of authorized but unissued Shares that are not reserved for future issuance in connection with transactions in the Shares (other than the Transactions) on the date of the determination of the Capped Number (such Shares, the "**Available Shares**"). In the event Counterparty shall not have delivered the Number of Shares otherwise deliverable as a result of this Section 8(d) (the resulting deficit, the "**Deficit Shares**"), Counterparty shall be continually obligated to deliver Shares, from time to time until the full number of Deficit Shares have been delivered pursuant to this paragraph, when, and to the extent that, (A) Shares are repurchased, acquired or otherwise received by Counterparty or any of its subsidiaries after the Trade Date (whether or not in exchange for cash, fair value or any other consideration), (B) authorized and unissued Shares reserved for issuance in respect of other transactions prior to such date which prior to the relevant date become no longer so reserved and (C) Counterparty additionally authorizes any unissued Shares that are not reserved for other transactions (such events as set forth in clauses (A), (B) and (C) above, collectively, the "**Share Issuance Events**"). Counterparty shall promptly notify Dealer of the occurrence of any of the Share Issuance Events (including the number of Shares subject to clause (A), (B) or (C) and the corresponding number of Shares to be delivered) and, as promptly as reasonably practicable, shall deliver such Shares thereafter. Counterparty shall not, until Counterparty's Share delivery obligations under the Transactions have been satisfied in full, use any Shares that become available for potential delivery to Dealer as a result of any Share Issuance Event for the settlement or satisfaction of any transaction or obligation other than the Transactions or reserve any such Shares for future issuance for any purpose other than to satisfy Counterparty's obligations to Dealer under the Transactions.

(e) The parties intend for each Confirmation to constitute a "Contract" as described in the letter dated October 6, 2003 submitted on behalf of Goldman, Sachs & Co. to Paula Dubberly of the staff of the Securities and Exchange Commission (the "**Staff**") to which the Staff responded in an interpretive letter dated October 9, 2003.

(f) The parties intend for each Transaction (taking into account purchases of Shares in connection with any Cash Settlement or Net Share Settlement) to comply with the requirements of Rule 10b5-1(c)(1)(i)(A) under the Exchange Act and for each Confirmation to constitute a binding contract or instruction satisfying the requirements of 10b5-1(c) and to be interpreted to comply with the requirements of Rule 10b5-1(c) under the Exchange Act.

(g) [Counterparty represents and warrants that it has received, read and understands Dealer's "Risk Disclosure Statement Regarding OTC Derivatives Products" and acknowledges the terms thereof as if it had signed the Risk Disclosure Statement Verification contained therein as of the date hereof.]<sup>2</sup>

## 9. Indemnity.

Counterparty agrees to indemnify Dealer and its affiliates and their respective directors, officers, employees, agents and controlling persons (Dealer and each such affiliate or person being an "**Indemnified Party**") from and against any and all losses, claims, damages and liabilities, joint and several, incurred by or asserted against such Indemnified Party arising out of, in connection with, or relating to any breach of any covenant or representation made by Counterparty in this Master Confirmation, any Supplemental Confirmation, or the Agreement and will reimburse any Indemnified Party for all reasonable out-of-pocket expenses (including reasonable out-of-pocket legal fees and reasonable expenses) as they are incurred in connection with the investigation of, preparation for, or defense of any pending or threatened claim or any action or proceeding arising therefrom (whether or not such Indemnified Party is a party thereto), except to the extent determined in a final and non-appealable judgment by a court of competent jurisdiction to have resulted from Dealer's gross negligence, fraud, bad faith and/or willful misconduct or from a breach of any representation or covenant of Dealer contained in this Master Confirmation or the Agreement. The foregoing provisions shall survive any termination or completion of the Transaction.

## 10. Beneficial Ownership.

Notwithstanding anything to the contrary in the Agreement, this Master Confirmation or any Supplemental Confirmation, in no event shall Dealer be entitled to receive, or be deemed to receive, Shares to the extent that, upon such receipt of such Shares, (i) the "beneficial ownership" (within the meaning of Section 13 of the Exchange Act and the rules promulgated thereunder) of Shares by Dealer, any other person that would have

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<sup>2</sup> Disclosure statement to be customized for dealer.

beneficial ownership of such Shares (any such person shall include without limitation of any of Dealer's affiliates' business units subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act) and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer with respect to "beneficial ownership" of any Shares (collectively, "**Dealer Group**") would be equal to or greater than 4.5% of the outstanding Shares (an "**Excess Section 13 Ownership Position**"), (ii) violation would occur in respect of any restriction on ownership and/or transfers set forth in Article VII of the Charter (such condition, "**Excess Charter Ownership Position**") or (iii) Dealer, Dealer Group or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under Sections 3-601 to 3-605 and 3-701 to 3-710 of the Maryland General Corporation Law or any state or federal bank holding company or banking laws, or any federal, state or local laws, regulations or regulatory orders or organizational documents or contracts of Counterparty, in each case, applicable to ownership of Shares ("**Applicable Restrictions**"), would own, beneficially own, constructively own, control, hold the power to vote or otherwise meet a relevant definition of ownership in excess of a number of Shares equal to (x) the lesser of (A) the maximum number of Shares that would be permitted under Applicable Restrictions and (B) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Restrictions and with respect to which such requirements have not been met or the relevant approval has not been received or that would give rise to any consequences under the constitutive documents of Counterparty or any contract or agreement to which Counterparty is a party, in each case *minus* (y) 1% of the number of Shares outstanding on the date of determination (such condition described in clause (iii), an "**Excess Regulatory Ownership Position**"). If any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of this provision, (i) Counterparty's obligation to make such delivery shall not be extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Dealer gives notice to Counterparty that such delivery would not result in (x) Dealer Group directly or indirectly so beneficially owning in excess of 4.5% of the outstanding Shares and (y) the occurrence of an Excess Charter Ownership Position or Excess Regulatory Ownership Position and (ii) if such delivery relates to a Physical Settlement, notwithstanding anything to the contrary herein, Dealer shall not be obligated to satisfy the portion of its payment obligation corresponding to any Shares required to be so delivered until the date Counterparty makes such delivery.

#### 11. Non-Confidentiality.

The parties hereby agree that (i) effective from the date of commencement of discussions concerning any Transaction, Counterparty, Dealer and each of their respective employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of such Transaction and all materials of any kind, including opinions or other tax analyses relating to such tax treatment and tax structure; *provided* that the foregoing does not constitute an authorization to disclose the identity of Counterparty, Dealer or their respective affiliates, agents or advisers, or, except to the extent relating to such tax structure or tax treatment, any specific pricing terms or commercial or financial information, and (ii) Dealer and Counterparty do not assert any claim of proprietary ownership in respect of any description contained herein or therein relating to the use of any entities, plans or arrangements to give rise to a particular United States federal income tax treatment for Counterparty or Dealer.

#### 12. Use of Shares.

Dealer acknowledges and agrees that, except in the case of a Private Placement Settlement, Dealer (or its agents or affiliates, as applicable) shall use any Shares delivered by Counterparty to Dealer on any Settlement Date to return to securities lenders to close out borrowings created by Dealer (or its agents or affiliates, as applicable) in connection with its hedging activities related to exposure under the applicable Transaction or in a manner that Dealer otherwise believes in good faith and based on the advice of counsel to be in compliance with applicable securities law.

#### 13. Restricted Shares.

If Counterparty is unable to comply with the covenant of Counterparty contained in Section 6(a) of this Master Confirmation or Dealer otherwise determines in its reasonable opinion, based on advice of counsel, that any Shares to be delivered to Dealer by Counterparty may not be freely returned by Dealer to securities lenders as described in Section 6(a) of this Master Confirmation, then delivery of any such Settlement Shares (the "**Unregistered Settlement Shares**") shall be effected pursuant to Annex A hereto, unless waived by Dealer.



#### 14. Set-Off.

Notwithstanding Section 6(f) of the Agreement, each party waives any and all rights it may have to set-off delivery or payment obligations it owes to the other party under any Transaction against any delivery or payment obligations owed to it by the other party, whether arising under the Agreement, under any other agreement between parties hereto, by operation of law or otherwise.

#### 15. Staggered Settlement.

Notwithstanding anything to the contrary herein, Dealer may, by prior notice to Counterparty, satisfy its obligation to deliver any Shares or other securities on any date due (an “**Original Delivery Date**”) by making separate deliveries of Shares or such securities, as the case may be, at more than one time on or prior to such Original Delivery Date, so long as the aggregate number of Shares and other securities so delivered on or prior to such Original Delivery Date is equal to the number required to be delivered on such Original Delivery Date.

#### 16. Right to Extend.

Dealer may postpone any Relevant Settlement Date or any other date of valuation or delivery, with respect to some or all of the relevant Settlement Shares, if Dealer determines, based on the advice of counsel, that such extension is reasonably necessary or appropriate to enable Dealer to effect purchases or Shares in connection with its hedging activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal and regulatory requirements.

#### 17. Ownership Limit.

Counterparty represents and undertakes to Dealer that Dealer, solely in its capacity as “Forward Purchaser” or “Sales Agent” (each as defined in the Sales Agreement) and solely with respect to its entering into and consummating the transactions contemplated by this Master Confirmation, any Supplemental Confirmation and the Sales Agreement, will not, either individually or collectively with any other Forward Purchasers or Sales Agents, be subject to the ownership limitations set forth in Article VII of the Charter.

#### 18. Other Forwards.

Counterparty agrees that it shall not (x) cause to occur, or permit to exist, any Forward Hedge Selling Period (as defined in the Sales Agreement) at any time there is (1) a “Forward Hedge Selling Period” (or equivalent concept) relating to any other issuer forward sale or similar transaction (including, without limitation, any “Transaction” under (as and defined under) any substantially identical master forward confirmation) with any financial institution other than Dealer (an “Other Forward Transaction”), (2) any “Unwind Period” (or equivalent concept) hereunder or under any Other Forward Transaction or (3) any other period in which Counterparty directly or indirectly issues and sells Shares pursuant to an underwriting agreement (or similar agreement including, without limitation, any equity distribution agreement) (such period, a “**Selling Period**”) that Counterparty enters into with any financial institution other than Dealer, or (y) cause to occur, or permit to exist, any Unwind Period at any time there is (1) an “Unwind Period” (or equivalent concept) under any Other Forward Transaction, (2) a “Forward Hedge Selling Period” (or equivalent concept) under any Other Forward Transaction or (3) any Selling Period. Dealer acknowledges, however, that, pursuant to the Sales Agreement, Counterparty may enter into one or more forward transactions (each, an “**Other ATM Forward Transaction**”) with another Forward Purchaser (as defined in the Sales Agreement) (an “**Other Dealer**”). Dealer and Counterparty agree that if Counterparty designates a “Relevant Settlement Date” (or equivalent concept) with respect to one or more Other ATM Forward Transactions for which “Cash Settlement” (or equivalent concept) or “Net Share Settlement” (or equivalent concept) is applicable, and the resulting “Unwind Period” (or equivalent concept) for such Other Forward Transaction coincides for any period of time with an Unwind Period for a Transaction (the “**Overlap Unwind Period**”), Counterparty shall notify Dealer at least one Scheduled Trading Day prior to the commencement of such Overlap Unwind Period of the first Scheduled Trading Day and length of such Overlap Unwind Period, and Dealer shall be permitted to purchase Shares to unwind its hedge in respect of a Transaction only on alternating Scheduled Trading Days during such Overlap Unwind Period, commencing on the first, second, third or later Scheduled Trading Day of such Overlap Unwind Period, as notified to Dealer by Counterparty at least one Scheduled Trading Day prior to such Overlap Unwind Period (which alternating Scheduled Trading Days, for the avoidance of doubt, would be every other Scheduled Trading Day if there is only one Other Dealer in such Overlap Unwind Period, every third Scheduled Trading Day if there are two Other Dealers, etc.).

19. Waiver of Jury Trial.

EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT, ANY CONFIRMATION, ANY TRANSACTION HEREUNDER AND/OR ALL MATTERS ARISING IN CONNECTION WITH THE AGREEMENT, ANY CONFIRMATION AND/OR ANY TRANSACTION HEREUNDER. EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH A SUIT, ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THE TRANSACTIONS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS PROVIDED HEREIN.

20. Submission to Jurisdiction.

Section 13(b) of the Agreement is deleted in its entirety and replaced by the following:

“Each party hereby irrevocably and unconditionally submits for itself and its property in any suit, legal action or proceeding relating to this Agreement and/or any Transaction, or for recognition and enforcement of any judgment in respect thereof, (each, “Proceedings”) to the exclusive jurisdiction of the Supreme Court of the State of New York, sitting in New York County, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof. Nothing in the Confirmation or this Agreement precludes either party from bringing Proceedings in any other jurisdiction if (A) the courts of the State of New York or the United States of America for the Southern District of New York lack jurisdiction over the parties or the subject matter of the Proceedings or declines to accept the Proceedings on the grounds of lacking such jurisdiction; (B) the Proceedings are commenced by a party for the purpose of enforcing against the other party’s property, assets or estate any decision or judgment rendered by any court in which Proceedings may be brought as provided hereunder; (C) the Proceedings are commenced to appeal any such court’s decision or judgment to any higher court with competent appellate jurisdiction over that court’s decisions or judgments if that higher court is located outside the State of New York or Borough of Manhattan, such as a federal court of appeals or the U.S. Supreme Court; or (D) any suit, action or proceeding has been commenced in another jurisdiction by or against the other party or against its property, assets or estate and, in order to exercise or protect its rights, interests or remedies under this Agreement or the Confirmation, the party (1) joins, files a claim, or takes any other action, in any such suit, action or proceeding, or (2) otherwise commences any Proceeding in that other jurisdiction as the result of that other suit, action or proceeding having commenced in that other jurisdiction.”

21. Counterparts.

This Master Confirmation may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and any party hereto may execute this Master Confirmation by signing and delivering one or more counterparts. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docuSign.com (any such signature, an “**Electronic Signature**”)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. The words “execution,” “signed,” “signature,” and words of like import in this Master Confirmation or in any other certificate, agreement or document related to this Master Confirmation shall include any Electronic Signature, except to the extent electronic notices are expressly prohibited under this Master Confirmation or the Agreement.

## 22. Taxes.

(a) For the purpose of Section 3(f) of the Agreement, Dealer makes the following representations:

(i) [\*]<sup>3</sup>

(b) For the purpose of Section 3(f) of the Agreement, Counterparty makes the following representations:

(i) It is a “U.S. person” (as that term is used in section 1.1441-4(a)(3)(ii) of the United States Treasury Regulations) for U.S. federal income tax purposes.

(ii) It is a real estate investment trust for U.S. federal income tax purposes, it is organized under the laws of the State of Maryland, and it is an exempt recipient under section 1.6049-4(c)(1)(ii)(J) of the United States Treasury Regulations.

(c) For the purpose of Sections 4(a)(i) and (ii) of the Agreement, (i) Dealer agrees to deliver to Counterparty one duly executed and completed United States Internal Revenue Service [Form W-9][Form W-8ECI][\*] (or successor thereto), (ii) Counterparty agrees to deliver to Dealer one duly executed and completed United States Internal Revenue Service Form W-9 (or successor thereto) and (iii) Dealer and Counterparty agree to deliver any other form or document that may be required or reasonably requested by the other party in order to allow such other party to make a payment under this Master Confirmation, including any Credit Support Document, without any deduction or withholding for or on account of any tax or with such deduction or withholding at a reduced rate. In each case, such forms or documents shall be completed accurately and in a manner reasonably acceptable to the other party and shall be delivered (a) in the case of (i) and (ii) above, upon execution of this Master Confirmation (b) promptly upon reasonable request of the other party and (c) promptly upon learning that any information on a form previously provided has become inaccurate or incorrect.

(d) “Indemnifiable Tax” as defined in Section 14 of the Agreement shall not include any withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended (the “Code”), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a “**FATCA Withholding Tax**”). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(e) To the extent that either party to the Agreement with respect to each Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the ISDA on November 2, 2015 and available at [www.isda.org](http://www.isda.org), as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to each Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to each Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to each Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of each Transaction. For greater certainty, if there is any inconsistency between this provision and the provisions contained in any other agreement between the parties with respect to each Transaction, this provision shall prevail unless such other agreement expressly overrides the provisions of the Attachment to the 871(m) Protocol.

## 23. US Resolution Stay Protocol.

The parties agree that the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”) page at [www.isda.org](http://www.isda.org) and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a “**Covered Agreement**,” Dealer shall be deemed a “**Covered**

<sup>3</sup> Tax provisions to be customized based on tax residency and classification of relevant Dealer.

**Entity**” and Counterparty shall be deemed a “**Counterparty Entity**” and for the avoidance of doubt shall be the only Counterparty Entity. In the event that, after the date of the Agreement, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between the Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “the Agreement” include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to Dealer replaced by references to the covered affiliate support provider.

“**QFC Stay Rules**” mean the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1- 7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

*[Include Dealer specific provisions.]*

Please confirm that the foregoing correctly sets forth the terms of the agreement between Dealer and Counterparty by executing one original copy of this Master Confirmation and returning such copy to Dealer and retaining the other original copy bearing the signature of Dealer for your records.

Yours faithfully,

**[DEALER]**

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

Agreed and accepted by:

**SUN COMMUNITIES, INC.**

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

## ANNEX A

### PRIVATE PLACEMENT PROCEDURES

If Counterparty delivers Unregistered Settlement Shares pursuant to Section 12 above (a “**Private Placement Settlement**”), then:

(a) all Unregistered Settlement Shares shall be delivered to Dealer (or any affiliate of Dealer designated by Dealer) pursuant to the exemption from the registration requirements of the Securities Act provided by Section 4(a)(2) thereof;

(b) as of or prior to the date of delivery, Dealer and any potential purchaser of any such shares from Dealer (or any affiliate of Dealer designated by Dealer) identified by Dealer shall be afforded a commercially reasonable opportunity to conduct a due diligence investigation with respect to Counterparty customary in scope for private placements of equity securities of issuers comparable to Counterparty (including, without limitation, the right to have made available to them for inspection all financial and other records, pertinent corporate documents and other information reasonably requested by them);

(c) as of the date of delivery, Counterparty shall enter into an agreement (a “**Private Placement Agreement**”) with Dealer (or any affiliate of Dealer designated by Dealer) in connection with the private placement of such shares by Counterparty to Dealer (or any such affiliate) and the private resale of such shares by Dealer (or any such affiliate), substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance commercially reasonably satisfactory to Dealer, which Private Placement Agreement shall include, without limitation, provisions substantially similar to those contained in such private placement purchase agreements relating, without limitation, to the indemnification of, and contribution in connection with the liability of, Dealer and its affiliates and the provision of customary opinions, accountants’ comfort letters and lawyers’ negative assurance letters, and shall provide for the payment by Counterparty of all reasonable fees and expenses in connection with such resale, including all reasonable fees and expenses of counsel for Dealer, and shall contain representations, warranties, covenants and agreements of Counterparty reasonably necessary or advisable to establish and maintain the availability of an exemption from the registration requirements of the Securities Act for such resales; and

(d) in connection with the private placement of such shares by Counterparty to Dealer (or any such affiliate) and the private resale of such shares by Dealer (or any such affiliate), Counterparty shall, if so requested by Dealer, prepare, in cooperation with Dealer, a private placement memorandum in form and substance reasonably satisfactory to Dealer.

In connection with the foregoing, Dealer acknowledges and agrees that a Private Placement Agreement and private placement memorandum substantially similar to the Sales Agreement and prospectus used in connection with the public offering of Shares pursuant thereto (with such modifications thereto as are reasonably satisfactory to Dealer taking into account the exempt resale of the Unregistered Settlement Shares, then-current facts and circumstances and such other factors as Dealer determines appropriate in its good faith and reasonable discretion, including with respect to any legal, regulatory or self-regulatory requirements or related policies and procedures generally applicable in similar situations and applied in a non-discriminatory manner (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer)), respectively, shall satisfy the documentation requirements set forth in clauses (c) and (d) above.

In the case of a Private Placement Settlement, Dealer shall, in its good faith discretion, adjust the amount of Unregistered Settlement Shares to be delivered to Dealer hereunder in a commercially reasonable manner to reflect the fact that such Unregistered Settlement Shares may not be freely returned to securities lenders by Dealer and may only be saleable by Dealer at a discount to reflect the lack of liquidity in Unregistered Settlement Shares.

If Counterparty delivers any Unregistered Settlement Shares in respect of the applicable Transaction, Counterparty agrees that (i) such Shares may be transferred by and among Dealer and its

affiliates and (ii) after the minimum “holding period” within the meaning of Rule 144(d) under the Securities Act has elapsed after the applicable Settlement Date, Counterparty shall promptly remove, or cause the transfer agent for the Shares to remove, any legends referring to any transfer restrictions from such Shares upon delivery by Dealer (or such affiliate of Dealer) to Counterparty or such transfer agent of seller’s and broker’s representation letters customarily delivered by Dealer or its affiliates in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, each without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

**ANNEX B**

**SUPPLEMENTAL CONFIRMATION**

To: **Sun Communities, Inc.**  
27777 Franklin Road, Suite 200  
Southfield, Michigan 48304

From: [DEALER NAME AND NOTICE INFORMATION]

Date: [ \* ], 20[ \* ]

Ladies and Gentlemen:

This Supplemental Confirmation is the Supplemental Confirmation contemplated by the Master Confirmation for the Registered Forward Transactions dated as of [ \* ], 20[ \* ] (the “**Master Confirmation**”) between Sun Communities, Inc. (“**Counterparty**”) and [DEALER NAME] (“**Dealer**”). All provisions contained in the Master Confirmation govern this Supplemental Confirmation except as expressly modified below. Dealer shall no later than the first Business Day following the Hedge Completion Date for the Transaction deliver to Counterparty the pricing report for the Transaction in the form as set forth in Schedule II hereto (the “**Pricing Report**”). Such Pricing Report shall supplement, form part of, and be subject to this Supplemental Confirmation. In the event of any inconsistency between this Supplemental Confirmation and the Pricing Report, the Pricing Report shall govern.

The terms of the Transaction to which this Supplemental Confirmation relates are as follows:

- a) the Trade Date is [ ];
- b) the Maturity Date is [ ];
- c) the Hedge Completion Date shall be as specified by Dealer in the Pricing Report;
- d) the Initial Number of Shares shall be as specified by Dealer in the Pricing Report;
- e) the Volume-Weighted Hedge Price shall be as specified by Dealer in the Pricing Report;
- f) the Net Percentage is [ ]%;
- g) the Spread is [ ]%;
- h) the Initial Forward Price is USD [ ];
- i) the Initial Stock Loan Rate is [ ] basis points per annum;
- j) the Maximum Stock Loan Rate is [ ] basis points per annum; and
- k) the Settlement Notice Cutoff is [ ] Scheduled Trading Days.

Forward Price Reduction Dates and Forward Price Reduction Amounts are as set forth in Schedule I hereto.



Please confirm that the foregoing correctly sets forth the terms of the agreement between Dealer and Counterparty by executing one original copy of this Supplemental Confirmation and returning such copy to Dealer and retaining the other original copy bearing the signature of Dealer for your records.

Yours faithfully,

**[DEALER]**

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

Agreed and accepted by:

**SUN COMMUNITIES, INC.**

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

FORWARD PRICE REDUCTION DATES AND AMOUNTS

**Forward Price Reduction Date**

**Forward Price Reduction Amount**

Trade Date	USD [*]
[*]	USD [*]
[*]	USD [*]
[*]	USD [*]
[*] <sup>4</sup>	USD [*]

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<sup>4</sup> Insert Forward Price Reduction Date that falls after the Maturity Date.

PRICING REPORT

To: **Sun Communities, Inc.**  
 27777 Franklin Road, Suite 200  
 Southfield, Michigan 48304

From: [DEALER NAME AND NOTICE INFORMATION]

Date: [ \* ], 20[ \* ]

Ladies and Gentlemen:

This Pricing Report is furnished by [Dealer] (“**Dealer**”), to Sun Communities, Inc. (“**Counterparty**”) (together, the “**Contracting Parties**”) in accordance with the Supplemental Confirmation, dated as of [ ], 20[ ] (the “**Supplemental Confirmation**”) between the Contracting Parties. This Pricing Report specifies the terms required by the Supplemental Confirmation and supplements, forms part of, and is subject to the Supplemental Confirmation and the Master Confirmation (as defined in the Supplemental Confirmation), between the Contracting Parties, as amended and supplemented from time to time. The terms required by the Supplemental Confirmation are as follows, with such terms determined in accordance with the Master Confirmation:

- a) Trade Date: [ ]
- b) Maturity Date: [ ]
- c) Hedge Completion Date: [ ]
- d) Initial Number of Shares: [ ]
- e) Volume-Weighted Hedge Price: [ ]

Yours faithfully,

[DEALER]

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