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

# FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the fiscal year ended December 31, 2021**

**OR**

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

**For the transition period from __________ to __________**

**Commission File Number: 001-38377**

# BRIGHTSPIRE CAPITAL, INC.
**(Exact Name of Registrant as Specified in Its Charter)**

| | |
|---|---|
| **Maryland** | **38-4046290** |
| **(State or Other Jurisdiction of Incorporation or Organization)** | **(I.R.S. Employer Identification No.)** |

**590 Madison Avenue, 33rd Floor**
**New York, NY 10022**
(Address of Principal Executive Offices, Including Zip Code)

**(212) 547-2631**
(Registrant's Telephone Number, Including Area Code)

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

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|---|---|---|
| Class A common stock, par value $0.01 per share | BRSP | New York Stock Exchange |

**Securities registered pursuant to Section 12 (g) of the Act: None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).
Yes ☒ No ☐

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

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

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

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

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date:

The aggregate market value of the registrant's voting and non-voting common equity held by non-affiliates of the registrant as of June 30, 2021, was approximately $789.8 million. As of February 18, 2022, BrightSpire Capital, Inc. had 129,765,365 shares of Class A common stock, par value $0.01 per share, outstanding

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the Company's Proxy Statement with respect to its 2022 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the Company's fiscal year ended December 31, 2021 are incorporated by reference into Part III of this Annual Report on Form 10-K.

**BRIGHTSPIRE CAPITAL, INC.**

**FORM 10-K**

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**Special Note Regarding Forward-Looking Statements**

This Annual Report on Form 10-K may contain forward-looking statements within the meaning of the federal securities laws. Forward-looking statements relate to expectations, beliefs, projections, future plans and strategies, anticipated events or trends and similar expressions concerning matters that are not historical facts. In some cases, you can identify forward-looking statements by the use of forward-looking terminology such as “may,” “will,” “should,” “expects,” “intends,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” or “potential” or the negative of these words and phrases or similar words or phrases which are predictions of or indicate future events or trends and which do not relate solely to historical matters. Forward-looking statements involve known and unknown risks, uncertainties, assumptions and contingencies, many of which are beyond our control, and may cause actual results to differ significantly from those expressed in any forward-looking statement.

Currently, one of the most significant factors that could cause actual outcomes to differ materially from our forward-looking statements is the adverse effect of the current pandemic of the ongoing coronavirus, or COVID-19, on the financial condition, results of operations, cash flows and performance of the Company, its borrowers and tenants, the real estate market and the global economy and financial markets. The extent to which the COVID-19 pandemic impacts us, our borrowers and our tenants will depend on future developments, which are highly uncertain and cannot be predicted with confidence, including the scope, severity and duration of the pandemic, the actions taken to contain the pandemic or mitigate its impact, the availability and acceptance of effective vaccines, and the direct and indirect economic effects of the pandemic and containment measures, among others.

Among others, the following uncertainties and other factors could cause actual results to differ from those set forth in the forward-looking statements:

- operating costs and business disruption may be greater than expected;
- the ongoing coronavirus pandemic, measures intended to prevent its spread and government actions to mitigate its economic impact have had and may have a material adverse effect on our business, results of operations and financial condition;
- we depend on borrowers and tenants for a substantial portion of our revenue and, accordingly, our revenue and our ability to make distributions to stockholders will be dependent upon the success and economic viability of such borrowers and tenants;
- deterioration in the performance of the properties securing our investments (including depletion of interest and other reserves or payment-in-kind concessions in lieu of current interest payment obligations) that may cause deterioration in the performance of our investments and, potentially, principal losses to us;
- the fair value of our investments may be subject to uncertainties or decrease;
- the ability to realize substantial efficiencies as well as anticipated strategic and financial benefits, including, but not limited to expected returns on equity and/or yields on investments;
- adverse impacts on our corporate revolver, including covenant compliance and borrowing base capacity;
- adverse impacts on our liquidity, including margin calls on master repurchase facilities, debt service or lease payment defaults or deferrals, demands for protective advances and capital expenditures;
- our real estate investments are relatively illiquid and we may not be able to vary our portfolio in response to changes in economic and other conditions, which may result in losses to us;
- the timing of and ability to deploy available capital;
- implementation of our investment strategy may be delayed or hindered as a result of terminating our relationship with our former manager;
- we have not established a minimum distribution payment level, and we cannot assure you of our ability to pay distributions in the future;
- the timing of and ability to complete repurchases of our stock;
- we are subject to risks associated with obtaining mortgage financing on our real estate, which could materially adversely affect our business, financial condition and results of operations and our ability to make distributions to stockholders;
- the impact of legislative, regulatory, tax and competitive changes and the actions of governmental authorities, and in particular those affecting the commercial real estate finance and mortgage industry or our business.

The foregoing list of factors is not exhaustive. We urge you to carefully review the disclosures we make concerning risks in the sections entitled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” herein.

We caution investors not to unduly rely on any forward-looking statements. The forward-looking statements speak only as of the date of this Annual Report on Form 10-K. The Company is under no duty to update any of these forward-looking statements after the date of this Annual Report on Form 10-K, nor to conform prior statements to actual results or revised expectations, and the Company does not intend to do so.

**Risk Factor Summary**

Our business is subject to a number of risks, including risks that may prevent us from achieving our business objectives or may adversely affect our business, financial condition, liquidity, results of operations and prospects. These risks are discussed more fully in Item 1A. Risk Factors. These risks include, but are not limited to, the following:

**Risks Related to COVID-19**

- The ongoing coronavirus pandemic, measures intended to prevent its spread and government actions to mitigate its economic impact have had and may continue to have a material adverse effect on our business, results of operations and financial condition.
- Our inability to access funding or the terms on which such funding is available could have a material adverse effect on our financial condition, particularly in light of ongoing market dislocations resulting from the COVID-19 pandemic.

**Risks Related to Our Company and Our Structure**

- We have not established a minimum distribution payment level, and we cannot assure you of our ability to pay distributions in the future.
- Certain provisions of Maryland law may limit the ability of a third party to acquire control of us.
- Ownership limitations may delay, defer or prevent a transaction or a change in our control that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders.
- Our umbrella partnership real estate investment trust, or UPREIT, structure may result in potential conflicts of interest with members of our operating company whose interests may not be aligned with those of stockholders.

**Risks Related to Our Business and Our Investments**

- We terminated our relationship with our former manager, which could delay or hinder implementation of our investment strategy, adversely affect our results of operations and financial condition and/or limit our ability to realize some or all of the target benefits of the Internalization.
- The B-Notes that we have acquired and may acquire in the future may be subject to additional risks related to the privately negotiated structure and terms of the transaction, which may result in significant operating losses to us and may limit our ability to make distributions to our stockholders.
- The mezzanine loan assets that we have acquired and may acquire in the future will involve greater risks of loss than senior loans secured by income-producing properties.
- Any distressed loans or investments we make, or loans and investments that later become distressed, may subject us to losses and other risks relating to bankruptcy proceedings.
- We invest in preferred equity interests, which involve a greater risk than conventional senior, junior or mezzanine debt financing.
- We invest in commercial properties subject to net leases, which could subject us to losses.
- We invest in CRE securities, including CMBS and collateralized debt obligations ("CDOs"), which entail certain heightened risks and are subject to losses.
- Shifts in consumer patterns and advances in communication and information technology that affect the use of traditional retail, hotel and office space may have an adverse impact on the value of certain of our debt and equity investments.
- Most of the commercial mortgage loans that we originate or acquire are non-recourse loans.
- We may be subject to risks associated with future advance or capital expenditure obligations, such as declining real estate values and operating performance.
- We have invested in, and may continue to invest in, certain assets with lower credit quality, which will increase our risk of losses and may reduce distributions to stockholders and may adversely affect the value of our common stock.

- The due diligence process that we undertake in regard to investment opportunities may not reveal all facts that may be relevant in connection with an investment and if we incorrectly evaluate the risks of our investments, we may experience losses.
- Because real estate investments are relatively illiquid, we may not be able to vary our portfolio in response to changes in economic and other conditions, which may result in losses to us.
- Our operations in Europe and elsewhere expose our business to risks inherent in conducting business in foreign markets.

**Risks Related to Our Financing Strategy**

- Our indebtedness may subject us to increased risk of loss and could adversely affect our results of operations and financial condition.
- Our master repurchase agreements impose, and additional lending facilities may impose, restrictive covenants, which would restrict our flexibility to determine our operating policies and investment strategy and to conduct our business.
- Interest rate fluctuations could reduce our ability to generate income on our investments and may cause losses.
- Hedging against interest rate and currency exposure may adversely affect our earnings, limit our gains or result in losses, which could adversely affect cash available for distribution to our stockholders.

**Risks Related to Regulatory Matters**

- The loss of our Investment Company Act exclusion could require us to register as an investment company or substantially change the way we conduct our business, either of which may have an adverse effect on us and the value of our common stock.
- We, through our subsidiary, are subject to extensive regulation, including as an investment adviser in the United States, which could adversely affect our ability to manage our business.

**Risks Related to Taxation**

- We may pay taxable dividends in our common stock and cash, in which case stockholders may sell shares of our common stock to pay tax on such dividends, placing downward pressure on the market price of our common stock.
- Our qualification as a REIT involves complying with highly technical and complex provisions of the Code.
- We may incur adverse tax consequences if NorthStar I or NorthStar II were to have failed to qualify as a REIT for U.S. federal income tax purposes prior to the Mergers.
- Dividends payable by REITs do not qualify for the preferential tax rates available for some dividends.
- REIT distribution requirements could adversely affect our ability to execute our business plan.
- Even if we continue to qualify as a REIT, we may face other tax liabilities that reduce our cash available for distribution to stockholders.
- Complying with REIT requirements may force us to forgo and/or liquidate otherwise attractive investment opportunities.
- The “taxable mortgage pool” rules may increase the taxes that we or our stockholders may incur, and may limit the manner in which we effect future securitizations.
- Complying with REIT requirements may limit our ability to hedge effectively and may cause us to incur tax liabilities.
- There is a risk of changes in the tax law applicable to REITs.
- Our ownership of assets and conduct of operations through our TRSs is limited and involves certain risks for us.

# PART I

## Item 1. Business

### Our Company

***References to "we," "us," "our," or the "Company" refer to BrightSpire Capital, Inc., a Maryland corporation, together with its consolidated subsidiaries, unless the context specifically requires otherwise. References to the "OP" refer to BrightSpire Capital Operating Company, LLC (formerly known as Credit RE Operating Company, LLC,) a Delaware limited liability company, the operating company of the Company. References to "Digital Bridge" refers to DigitalBridge Group, Inc., formerly known as Colony Capital, Inc. a Maryland corporation, and its subsidiaries.***

We are a commercial real estate ("CRE") credit real estate investment trust ("REIT") focused on originating, acquiring, financing and managing a diversified portfolio consisting primarily of CRE debt investments and net leased properties predominantly in the United States. CRE debt investments primarily consist of first mortgage loans, which we expect to be our primary investment strategy. Additionally, we may also selectively originate mezzanine loans and preferred equity investments, which may include profit participations. The mezzanine loans and preferred equity investments may be in conjunction with our origination of corresponding first mortgages on the same properties. Net leased properties consist of CRE properties with long-term leases to tenants on a net-lease basis, where such tenants generally will be responsible for property operating expenses such as insurance, utilities, maintenance capital expenditures and real estate taxes. We may target net leased equity investments on a selective basis. Additionally, we previously made investments in CRE debt securities primarily consisting of commercial mortgage-backed securities ("CMBS") (including "B pieces" of a CMBS securitization pool) or CRE collateralized loan obligations ("CLOs") (including the junior tranches collateralized by pools of CRE debt investments). We reduced our CMBS holdings since the second quarter of 2020, and sold our last CMBS security available for sale in the fourth quarter of 2021. As of December 31, 2021 we hold only "B-pieces" of a CMBS securitization pool which are subject to risk retention provisions through June 2022.

We were organized in the state of Maryland on August 23, 2017 and maintain key offices in New York, New York and Los Angeles, California. We elected to be taxed as a REIT under the Internal Revenue Code of 1986, as amended, beginning with our taxable year ended December 31, 2018. We conduct all our activities and hold substantially all our assets and liabilities through our operating subsidiary, BrightSpire Capital Operating Company, LLC (formerly known as Credit RE Operating Company, LLC, the "OP"). At December 31, 2021, we owned 97.7% of the OP, as its sole managing member. The remaining 2.3% is owned as noncontrolling interests.

Impact of the COVID-19 Pandemic on Our Business

The COVID-19 pandemic has negatively impacted CRE credit REITs across the industry, as well as other companies that own and operate commercial real estate investments, including our company. As we manage the impact and uncertainties of the COVID-19 pandemic, cash preservation, liquidity and investment and portfolio management are our key priorities.

We continue to work closely with our borrowers and tenants to address the impact of COVID-19 on their businesses. To the extent that certain borrowers are experiencing significant financial dislocation we have and may continue to consider the use of interest and other reserves and/or replenishment obligations of the borrower and/or guarantors to meet current interest payment obligations, for a limited period. Similarly, we have and may in the future evaluate converting certain current interest payment obligations to payment-in-kind as a potential bridge period solution. We have in limited cases allowed some portions of current interest to convert to payment-in-kind.

The COVID-19 pandemic has created uncertainties that have and will continue to negatively impact our future operating results, liquidity and financial condition. However, we believe there are too many uncertainties to predict and quantify the continuing impact. The potential concerns and risks include, but are not limited to, mortgage borrowers ability to make monthly payments, lessees' capacity to pay their rent, and the resulting impact on us to meet our obligations. Therefore, there can be no assurances that we will not need to take impairment charges in future quarters or experience further declines in revenues and net income, which could be material. For more information, refer to "Part I - Item 1A. Risk Factors" of this Annual Report on Form 10-K for further discussion regarding the COVID-19 pandemic and its impact on our future operating results, liquidity and financial condition.

*The Internalization*

On April 30, 2021, we completed the internalization of the Company's management and operating functions and terminated our relationship with CLNC Manager, LLC (the "Manager"), a subsidiary of DigitalBridge Group, Inc. ("DigitalBridge"), formerly known as Colony Capital, Inc., in accordance with that termination agreement dated April 4, 2021 between the Company, the OP, the Manager and Colony Capital Investment Advisors, LLC (the "Termination Agreement," and the transactions contemplated thereunder, the “Internalization”). We paid the Manager a one-time termination fee of $102.3 million. Therefore, we no longer pay management or incentive fees to the Manager for any post-closing period and we have assumed general and administrative expenses directly. We have achieved a savings in operating costs as a result of the Internalization. Further, in connection with the Internalization, certain affiliates of ours and the Manager entered into a transition services agreement (“TSA”) to facilitate an orderly internalization transition of the management of our operations. The TSA expired on September 30, 2021, at which time we fully transitioned the management of our operations.

Our executive team remains unchanged, including Michael J. Mazzei, Chief Executive Officer; Andrew E. Witt, President and Chief Operating Officer; Frank V. Saracino, Chief Financial Officer and Executive Vice President; David A. Palamé, General Counsel, Secretary and Executive Vice President; George Kok, Chief Credit Officer; and Daniel Katz, Head of Originations. As a result of the Company’s 2021 Annual Meeting of Stockholders, DigitalBridge no longer has affiliated representatives on our board of directors. The Company’s board of directors is comprised of seven members, including our six independent directors, led by Catherine D. Rice, our Independent Chairperson, Vernon Schwartz, John Westerfield, Winston W. Wilson, Kim S. Diamond, Catherine F. Long and Michael J. Mazzei, the Company’s Chief Executive Officer. Ms. Diamond and Ms. Long were appointed to the board of directors during 2021. Additionally, certain professionals that have contributed substantially to our investment, underwriting, portfolio and asset management, loan servicing, financial reporting, treasury, legal, tax, credit, risk and compliance responsibilities seamlessly moved forward as direct employees of the Company.

Our senior management team has extensive experience managing and investing in real estate-related investments through a variety of credit cycles and market conditions. The clarity in organizational structure and dedicated management and employee base achieved through the Internalization solidifies the footprint and corresponding network developed by our investment and asset management teams, with proprietary market knowledge, sourcing capabilities and the local presence required to identify, execute and manage new originations and existing investments on behalf of the Company. Our real estate investment platform and relationships allow us to source, underwrite, structure and manage investment opportunities as well as to access debt and equity capital to fund our operations. We have fully integrated investment and portfolio management, finance and administration functions, including legal, compliance, human resources, investor relations, asset valuation, credit and risk management and information technology services. The Company has a captive, fully functional, asset management company that engages primarily in loan servicing for performing, sub-performing and non-performing commercial loans, including senior secured loans, revolving lines of credit, loan participations, subordinated loans, unsecured loans and mezzanine debt. Our asset management subsidiary is a commercial special servicer rated by both Standard & Poor’s and Fitch’s rating services.

On June 24, 2021, BrightSpire Capital, Inc. changed its name from Colony Credit Real Estate, Inc. We also changed our principal place of business and corporate headquarters from Los Angeles to New York City, now located at 590 Madison Avenue, 33rd Floor, New York, NY 10022. We continue to be publicly traded on the New York Stock Exchange. However, concurrent with our name change, we changed our ticker symbol to BRSP.

**Our Investment Strategy**

Our objective is to generate consistent and attractive risk-adjusted returns to our stockholders. We seek to achieve this objective primarily through cash distributions and the preservation of invested capital. We believe our investment strategy provides flexibility through economic cycles to achieve attractive risk-adjusted returns. This approach is driven by a disciplined investment strategy, focused on:

- leveraging long standing relationships, our organization structure and the experience of the team;
- the underlying real estate and market dynamics to identify investments with attractive risk-return profiles;
- primarily originating and structuring CRE senior mortgage loans and selective investments in mezzanine loans and preferred equity with attractive return profiles relative to the underlying value and financial operating performance of the real estate collateral, given the strength and quality of the sponsorship;
- structuring transactions with a prudent amount of leverage, if any, given the risk of the underlying asset’s cash flows, attempting to match the structure and duration of the financing with the underlying asset’s cash flows, including through the use of hedges, as appropriate; and
- operating our net leased real estate investments and selectively pursuing new investments based on property location and purpose, tenant credit quality, market lease rates and potential appreciation of, and alternative uses for, the real estate.

The period for which we intend to hold our investments will vary depending on the type of asset, interest rates, investment performance, micro and macro real estate environment, capital markets and credit availability, among other factors. We generally expect to hold debt investments until the stated maturity and equity investments in accordance with each investment’s proposed business plan. We may sell all or a partial ownership interest in an investment before the end of the expected holding period if we believe that market conditions have maximized its value to us or the sale of the asset would otherwise be in the best interests of our stockholders.

Our investment strategy is flexible, enabling us to adapt to shifts in economic, real estate and capital market conditions and to exploit market inefficiencies. We may expand or change our investment strategy or target assets over time in response to opportunities available in different economic and capital market conditions. This flexibility in our investment strategy allows us to employ a customized, solutions-oriented approach, which we believe is attractive to borrowers and tenants. We believe that our diverse portfolio, our ability to originate, acquire and manage our target assets and the flexibility of our investment strategy positions us to capitalize on market inefficiencies and generate attractive long-term risk-adjusted returns for our stockholders through a variety of market conditions and economic cycles.

**Our Target Assets**

During the first quarter of 2021, we began to selectively pursue new investments and continued throughout the remainder of 2021. These new investments were entirely first mortgage loans eligible for collateralized loan obligation securitizations.

Our investment strategy is to originate and selectively acquire our target assets, which consist of the following:

- ***Senior Mortgage Loans.*** Our primary focus is originating and selectively acquiring senior mortgage loans that are backed by CRE assets. These loans are secured by a first mortgage lien on a commercial property and provide mortgage financing to a commercial property developer or owner. The loans may vary in duration, bear interest at a fixed or floating rate and amortize, if at all, over varying periods, often with a balloon payment of principal at maturity. Senior mortgage loans may include junior participations in our originated senior loans for which we have syndicated the senior participations to other investors and retained the junior participations for our portfolio. We believe these junior participations are more like the senior mortgage loans we originate than other loan types given their credit quality and risk profile.

- ***Mezzanine Loans.*** We may originate or acquire mezzanine loans, which are structurally subordinate to senior loans, but senior to the borrower's equity position. Generally, we will originate or acquire these loans if we believe we have the ability to protect our position and fund the first mortgage, if necessary. Mezzanine loans may be structured such that our return accrues and is added to the principal amount rather than paid on a current basis. We may also pursue equity participation opportunities in instances when the risk-reward characteristics of the investment warrant additional upside participation in the possible appreciation in value of the underlying assets securing the investment.

- ***Preferred Equity.*** We may make investments that are subordinate to senior and mezzanine loans, but senior to the common equity in the mortgage borrower. Preferred equity investments may be structured such that our return accrues and is added to the principal amount rather than paid on a current basis. We also may pursue equity participation opportunities in preferred equity investments, like such participations in mezzanine loans.

- ***Net Leased and Other Real Estate.*** We may occasionally invest directly in well-located commercial real estate with long-term leases to tenants on a net lease basis, where such tenants generally will be responsible for property operating expenses such as insurance, utilities, maintenance capital expenditures and real estate taxes. In addition, tenants of our properties typically pay rent increases based on: (1) increases in the consumer price index (typically subject to ceilings), (2) fixed increases, or (3) additional rent calculated as a percentage of the tenants' gross sales above a specified level. We believe that a portfolio of properties under long-term, net lease agreements generally produces a more predictable income stream than many other types of real estate portfolios, while continuing to offer the potential for growth in rental income.

Our operating segments include senior and mezzanine loans and preferred equity, net leased and other real estate, all of which are included in our target assets, and CRE debt securities and corporate. Our target assets are included in different operating segments.

The allocation of our capital among our target assets will depend on prevailing market conditions at the time we invest and may change over time in response to different prevailing market conditions. In addition, in the future, we may invest in assets other than our target assets or change our target assets. With respect to all our investments, we invest so as to maintain our qualification as a REIT for U.S. federal income tax purposes and our exclusion or exemption from regulation under the Investment Company Act of 1940, as amended (the "Investment Company Act").

We believe that events in the financial markets from time to time, including the current and potential impacts of the COVID-19 pandemic, have created and will continue to create dislocation between price and intrinsic value in certain asset classes as well as a supply and demand imbalance of available credit to finance these assets. We believe that our in-depth understanding of CRE and real estate-related investments, in-house underwriting, asset management and resolution capabilities, provides an extensive platform to regularly evaluate our investments and determine primary, secondary or alternative disposition strategies. This includes intermediate servicing and negotiating, restructuring of non-performing investments, foreclosure considerations, management or development of owned real estate, in each case to reposition and achieve optimal value realization for the Company and its stockholders. Depending on the nature of the underlying investment, we may pursue repositioning strategies through judicious capital investment in order to extract maximum value from the investment or recognize unanticipated losses to reinvest resulting liquidity in higher-yielding performing investments.

**Our Competitive Strengths**

We believe that we distinguish ourselves from other CRE finance and investment companies in a number of ways, including the following:

***Large diversified portfolio.***

We are a large publicly-traded CRE credit/mortgage REIT. Our portfolio is composed of a diverse set of CRE assets across the capital stack, including senior mortgage loans as well as select mezzanine loans and preferred equity. We will also occasionally invest in single tenant net leased properties. We believe that the scale of our portfolio gives us a competitive advantage by providing us with significant portfolio diversification, economies of scale and advantageous access to capital.

***Disciplined investment strategy.***

We focus on originating, acquiring, financing and managing CRE senior mortgage loans, mezzanine loans, preferred equity, debt securities and net leased properties. Our investment strategy is dynamic and flexible, enabling us to adapt to shifts in economic, real estate and capital market conditions and to exploit market inefficiencies. This flexible investment strategy will allow us to employ a customized, solutions-oriented approach to investment, which we believe is attractive to our borrowers and tenants and which will allow us to deploy capital across a broader opportunity set.

**Our Financing Strategy**

We have a multi-pronged financing strategy that included an up to $300 million secured revolving credit facility as of December 31, 2021, up to approximately $2.1 billion in secured revolving repurchase facilities, $1.5 billion in non-recourse securitization financing, $695 million in commercial mortgages and $65 million in other asset-level financing structures.

On January 28, 2022, we, through our subsidiaries, including the OP, entered into an Amended and Restated Credit Agreement (the "Credit Agreement") pursuant to which the Lenders agreed to provide a revolving credit facility in the reduced aggregate principal amount of up to $165 million, of which up to $25 million is available as letters of credit.

In addition, we may use other forms of financing, including additional warehouse facilities, public and private secured and unsecured debt issuances and equity or equity-related securities issuances by us or our subsidiaries. We may also finance a portion of our investments through the syndication of one or more interests in a whole loan. We will seek to match the nature and duration of the financing with the underlying asset's cash flow, including using hedges, as appropriate.

**Leverage Policies**

While we limit our use of leverage and believe we can achieve attractive yields on an unleveraged basis, we may use prudent amounts of leverage to increase potential returns to our stockholders and/or to finance future investments. Given current market conditions, to the extent that we use borrowings to finance our assets, we currently expect that such leverage would not exceed on a debt-to-equity basis, a 3-to-1 ratio for us as a whole. We consider these leverage ratios to be prudent for our target asset classes. Our decision to use leverage currently or in the future to finance our assets will be based on our assessment of a variety of factors, including, among others, the anticipated credit quality, liquidity and price volatility of the assets in our investment portfolio, the potential for losses and extension risk in our portfolio, the ability to raise additional equity to reduce leverage and create liquidity for future investments, the availability of credit at favorable prices or at all, the credit quality of our assets and our outlook for borrowing costs relative to the interest income earned on our assets. Our decision to use leverage in the future to finance our assets will be at the discretion of our management and will not be subject to the approval of our stockholders, and we are not restricted by our governing documents or otherwise in the amount of leverage that we may use. To the extent that we use leverage in the future, we may mitigate interest rate risk through utilization of hedging instruments, primarily interest rate swap and cap agreements, to serve as a hedge against future interest rate increases on our borrowings.

**Investment Guidelines**

We have no prescribed limitation on any particular investment type. However, the Company's board of directors ("Board of Directors") has adopted the following investment guidelines:

- no investment shall be made that would cause the Company to fail to qualify as a REIT for U.S. federal income tax purposes;
- no investment shall be made that would cause the Company or any subsidiary to be required to be registered as an investment company under the Investment Company Act;
- until appropriate investments can be identified, we may invest the proceeds of any future offerings of the Company in interest-bearing, short-term investments, including money market accounts and/or U.S. treasury securities, that are consistent with the Company's intention to qualify as a REIT and maintain its exemption from registration under the Investment Company Act;
- any investment with a total net commitment by the OP of greater than 5% of the OP's net equity (computed using the most recently available publicly filed balance sheet) shall require the approval of the Board of Directors or a duly constituted committee of the Board of Directors (with total net commitment by the OP being the aggregate amount of funds directly or indirectly committed by the OP to such investment net of any upfront fees received by the Company or any subsidiary in connection with such investment); and
- any investment with a total net commitment by the OP of between 3% and 5% of the OP's net equity (computed using the most recently available publicly filed balance sheet) shall require the approval of the Board of Directors or a duly constituted committee of the Board of Directors (with total net commitment by the OP being the aggregate amount of funds directly or indirectly committed by the OP to such investment net of any upfront fees received by the Company or any subsidiary in connection with such investment), unless the investment falls within specific parameters approved by the Board of Directors and in effect at the time such commitment is made.

The investment guidelines can be amended or waived with the approval of the Board of Directors (which must include a majority of the independent directors).

**Operating and Regulatory Structure**

***REIT Qualification***

We elected to be taxed as a REIT for U.S. federal income tax purposes beginning with our taxable year ended December 31, 2018. As a REIT, we generally will not be subject to U.S. federal income tax on the "REIT taxable income" that we distribute annually to our stockholders.

***Investment Company Act Matters***

We and our subsidiaries conduct our operations so that we are not required to register as an investment company under the Investment Company Act.

We believe we are not an investment company under Section 3(a)(1)(A) of the Investment Company Act because we do not engage primarily, or hold ourselves out as being engaged primarily, in the business of investing, reinvesting or trading in securities. Rather, we, through our subsidiaries, are primarily engaged in non-investment company businesses related to real estate. In addition, we intend to conduct our operations so that we do not come within the definition of an investment company under Section 3(a)(1)(C) of the Investment Company Act because less than 40% of our total assets on an unconsolidated basis will consist of "investment securities." Section 3(a)(1)(C) of the Investment Company Act defines an investment company as any issuer that is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities and that owns or proposes to acquire investment securities having a value exceeding 40% of the value of the issuer's total assets (exclusive of U.S. government securities and cash items). Excluded from the term "investment securities" (as that term is defined in the Investment Company Act) are securities issued by majority-owned subsidiaries that are themselves not investment companies and are not relying on the exclusion from the definition of investment company set forth in Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act. Under the Investment Company Act, a subsidiary is majority-owned if a company owns 50% or more of its outstanding voting securities. To avoid the need to register as an investment company, the securities issued to us by any wholly-owned or majority-owned subsidiaries that we may form in the future that are excluded from the definition of investment company under Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act, together with any other investment securities we may own, may not have a value in excess of 40% of the value of our total assets on an unconsolidated basis. We monitor our holdings to ensure ongoing compliance with this test.

We hold our assets primarily through direct or indirect wholly-owned or majority-owned subsidiaries, certain of which are excluded from the definition of investment company pursuant to Section 3(c)(5)(C) or Section 3(c)(6) of the Investment Company Act. To qualify for the exclusion pursuant to Section 3(c)(5)(C), based on positions set forth by the staff of U.S. Securities and Exchange Commission (the “SEC”), each such subsidiary, considered on an individual basis, is generally required to hold at least (i) 55% of its assets in “qualifying” real estate assets and (ii) at least 80% of its assets in “qualifying” real estate assets and real estate-related assets. For our subsidiaries that maintain this exclusion or another exclusion or exception under the Investment Company Act (other than Section 3(c)(1) or Section 3(c)(7) thereof), our interests in these subsidiaries do not and will not constitute “investment securities.” “Qualifying” real estate assets for this purpose include senior mortgage loans, certain B-notes and certain mezzanine loans that satisfy various conditions as set forth in SEC staff no-action letters and other guidance, and other assets that the SEC staff in various no-action letters and other guidance has determined are the functional equivalent of senior loans for the purposes of the Investment Company Act. We treat as real estate-related assets B-pieces and mezzanine loans that do not satisfy the conditions set forth in the relevant SEC staff no-action letters and other guidance, and debt and equity securities of companies primarily engaged in real estate businesses. Unless a relevant SEC no-action letter or other guidance applies, we expect to treat preferred equity interests as real estate-related assets. The SEC has not published guidance with respect to the treatment of CMBS for purposes of the Section 3(c)(5)(C) exclusion. Unless the SEC or its staff issues guidance with respect to CMBS, we intend to treat CMBS as a real estate-related asset. To the extent that the SEC staff publishes new or different guidance with respect to these matters, we may be required to adjust our strategy accordingly. For our subsidiaries that maintain this exclusion or another exclusion or exception under the Investment Company Act (other than Section 3(c)(1) or Section 3(c)(7) thereof), our interests in these subsidiaries do not and will not constitute “investment securities.”

Our subsidiaries that rely on the exclusion provided for in Section 3(c)(6) do so because they are primarily engaged, directly or through majority-owned subsidiaries, in Section 3(c)(5)(C) businesses or in one or more of such businesses (from which not less than 25 percent of such company’s gross income during its last fiscal year was derived) together with an additional business or businesses other than investing, reinvesting, owning, holding, or trading in securities. Although there is limited guidance from the staff of the SEC interpreting Section 3(c)(6), we believe that it is commonly understood that the term “primarily” has the same numerical connotation as under Section 3(c)(5), as described in the preceding paragraph with the determination for any subsidiary including the assets of its majority owned subsidiaries on a consolidated basis.

If we were required to register as an investment company under the Investment Company Act, we would become subject to substantial regulation with respect to our capital structure (including our ability to use leverage), management, operations, transactions with affiliated persons (as defined in the Investment Company Act), portfolio composition, including restrictions with respect to diversification and industry concentration, and other matters.

As a consequence of our seeking to avoid the need to register under the Investment Company Act on an ongoing basis, we and/or our subsidiaries may be restricted from making certain investments or may structure investments in a manner that would be less advantageous to us than would be the case in the absence of such requirements. In particular, a change in the value of any of our assets could negatively affect our ability to avoid the need to register under the Investment Company Act and cause the need for a restructuring of our investment portfolio. For example, these restrictions may limit our and our subsidiaries’ ability to invest directly in mortgage-backed securities (“MBSs”) that represent less than the entire ownership in a pool of senior loans, debt and equity tranches of securitizations and certain asset-backed securities, noncontrolling equity interests in real estate companies or in assets not related to real estate. In addition, seeking to avoid the need to register under the Investment Company Act may cause us and/or our subsidiaries to acquire or hold additional assets that we might not otherwise have acquired or held or dispose of investments that we and/or our subsidiaries might not have otherwise disposed of, which could result in higher costs or lower proceeds to us than we would have paid or received if we were not seeking to comply with such requirements. Thus, avoiding registration under the Investment Company Act may hinder our ability to operate solely on the basis of maximizing profits.

There can be no assurance that we and our subsidiaries will be able to successfully avoid operating as an unregistered investment company. If it were established that we were an unregistered investment company, there would be a risk that we would be subject to monetary penalties and injunctive relief in an action brought by the SEC, that we would be unable to enforce contracts with third parties, that third parties could seek to obtain rescission of transactions undertaken during the period it was established that we were an unregistered investment company, and that we would be subject to limitations on corporate leverage that would have an adverse impact on our investment returns.

***Government Regulation Relating to the Environment***

Our properties are subject to various federal, state and local environmental laws, statutes, ordinances and regulations. Such laws and other regulations relate to a variety of environmental hazards, including asbestos-containing materials (“ACM”), toxins or irritants, mold, regulated substances, emissions to the environment, fire codes and other hazardous or toxic substances, materials or wastes. These laws are subject to change and may be more stringent in the future. Under current laws, a current or previous owner or operator of real estate (including, in certain circumstances, a secured lender if it participates in management or succeeds to ownership or control of a property) may become liable for costs and liabilities related to contamination or other environmental issues at or with respect to the property, including in connection with the activities of a tenant. Such cleanup laws typically impose cleanup responsibility and liability without regard to whether the owner or operator party knew of or was responsible for the release or presence of such hazardous or toxic substances. In addition, parties may be liable for costs of remediating contamination at an off-site disposal or treatment facilities where they arrange for disposal or treatment of hazardous substances. These liabilities and costs, including for investigation, remediation or removal of those substances or natural resource damages, third party tort claims resulting from personal injury or property damage, restrictions on the manner in which the property is used, liens in favor of the government for damages and costs the government incurs related to cleanup of contamination, and costs to properly manage or abate asbestos or mold may be substantial. Absent participating in management or succeeding to ownership, operation or other control of real property, a secured lender is not likely to be directly subject to any of these forms of environmental liability, although a borrower could be subject to these liabilities impacting its ability to make loan payments.

Prior to closing any property acquisition, we obtain environmental assessments in a manner we believe prudent in order to attempt to identify potential environmental concerns with respect to such properties. These assessments are carried out in accordance with an appropriate level of due diligence and generally include a physical site inspection, a review of relevant federal, state and local environmental and health agency database records, one or more interviews with appropriate site-related personnel, review of the property's chain of title and review of historic aerial photographs and other information on past uses of the property. We may also conduct limited subsurface investigations and test for substances of concern where the result of the first phase of the environmental assessments or other information indicates possible contamination or where our consultants recommend such procedures.

We are not currently aware of any environmental liabilities that could materially affect the Company. Refer to the risk factor "Environmental compliance costs and other potential environmental liabilities associated with our current or former properties or our CRE debt or real estate-related investments could materially impair the value of our investments and expose us to material liability" in the section entitled "Risk Factors—Risks Related to Our Business and Our Investments" for more details regarding potential environmental liabilities and risk related to the Company.

***Other Regulation***

Our operations are subject, in certain instances, to supervision and regulation by state and federal governmental authorities and may be subject to various laws and judicial and administrative decisions imposing various requirements and restrictions, which, among other things: (1) regulate credit granting activities; (2) establish maximum interest rates, finance charges and other charges; (3) require disclosures to customers; (4) govern secured transactions; (5) set collection, foreclosure, repossession and claims handling procedures and other trade practices; and (6) regulate affordable housing rental activities. Although most states do not regulate commercial finance, certain states impose limitations on interest rates and other charges and on certain collection practices and creditor remedies, and require licensing of lenders and financiers and adequate disclosure of certain contract terms. We are also required to comply with certain provisions of the Equal Credit Opportunity Act that are applicable to commercial loans and the Fair Housing Act. We intend to conduct our business so that we comply with such laws and regulations.

**Competition**

We are engaged in a competitive business. In our lending and investing activities, we compete for opportunities with a variety of institutional lenders and investors, including other REITs, specialty finance companies, public and private funds, commercial and investment banks, commercial finance and insurance companies and other financial institutions. Several other REITs have raised, or are expected to raise, significant amounts of capital, and may have similar acquisition objectives that overlap with ours. These other REITs will increase competition for the available supply of mortgage assets suitable for purchase and origination. Furthermore, this competition in our target asset classes may lead to the yields of such assets decreasing, which may further limit our ability to generate satisfactory returns.

Some of our competitors may have a lower cost of funds and access to funding sources that are not available to us, such as the U.S. Government. Many of our competitors are not subject to the operating constraints associated with REIT rule compliance or maintenance of an exclusion from registration under the Investment Company Act. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of loans and investments, offer more attractive pricing or other terms and establish more relationships than us.

Federal regulators have modified restrictions on the activity of banks and other deposit-taking institutions that previously prohibited such entities from competing for certain investment opportunities. The changes to this regulatory scheme, commonly referred to as the Volcker Rule, became effective on October 1, 2020 and may allow these financial institutions to compete with us for investment opportunities that were not previously available to them, thus increasing competition with our business. In the face of this competition, we believe our investment professionals and their industry expertise and relationships provide us with competitive advantages in assessing risks and determining appropriate pricing for potential investments. We believe these relationships enable us to compete more effectively for attractive investment opportunities.

**Human Capital Management**

*Experienced Management and Employees*

On April 30, 2021, we completed the Internalization, transitioning from an externally-managed REIT to an internally-managed REIT. Prior to the Internalization, we did not have any employees. In connection with closing the Internalization, we maintained management continuity and team expertise by hiring 45 full-time employees from an affiliate of our former manager, including our executive officers, who contributed substantially to our investment, portfolio management, servicing, financial reporting and related operations. Our executive management team and human resources partner oversee our human capital resources and employment practices to ensure that an asset as important as our employees are strategically integrated with our goals and business plans as a commercial real estate mortgage REIT.

On December 31, 2021, we had 55 employees, all of which are full-time employees. Our 55 employees are located throughout the United States as follows: 35 in New York, New York at our Headquarters, 17 in Los Angeles, California, one in Dallas, Texas, one in Atlanta, Georgia and one in Boston, Massachusetts.

*Employee Matters and Culture*

We are committed to maintaining a positive work environment in which employee accountability, growth, advancement, diversity, inclusion and equal employment opportunity are very important. We strive to recognize and reward noteworthy performance, evaluated through periodic (no less frequent than annual) reviews with each employee. We seek to attract and retain the most relevant and skilled employees by offering competitive compensation and benefits, including fixed and variable pay, including base salary, cash bonuses, equity-based compensation consistent with employee position and seniority, 401(k) matching and opportunities for merit-based increases.

We maintain policies that reinforce and enhance its commitment to high ethical standards, corporate governance and internal controls, to provide the best and most competitive service to our customers in order to enhance stockholder value. We promote a workplace that is free of harassment and discriminatory and retaliatory practices. In keeping with these priorities, we maintain an open-door policy for conflict management and requires periodic (no less frequent than annual) interactive harassment prevention training for both managers and employees consistent with applicable state and local laws. We regularly re-evaluate our policies covering codes of ethics, corporate governance, disclosure controls, anti-discrimination, harassment, retaliation and related complaint procedures, insider trading, and related party transaction activity.

We maintain a co-employer partnership with Trinet (a professional employer organization). Trinet administers pay and other employment services, allowing us to maximize human resource administration and enhance the diversity and strength of benefits provided to employees. Through Trinet, employees have access to an extensive health and wellness platform, including live, personal and mental health counseling, family, financial and career planning resources, as well as a broad-based marketplace offering technology products, travel, entertainment, dining, fitness and other services at significantly discounted prices.

*Our Commitment to Charity*

We maintain a commitment to corporate giving to national and local associations in the communities in which we live and conduct business. We support certain charitable matching of contributions made by employees, encouraging a unified culture acting together. Our employees have recently teamed up to support Toys for Tots and will participate in charitable fundraising endeavors such as Cycle for Survival. Certain departments have worked together in volunteer efforts to give back to the community as well.

*COVID-19 Protocols*

Beginning in March 2020 our team effectively transitioned to a remote work environment due to COVID-19, with the staff fully supported by information technology resources available to us, including home office equipment. Our technology and cloud-based systems ensured a seamless transition and uncompromised access to all of our customer information. In October 2020, the team had the opportunity to voluntarily return to the office. In May 2021, we recommended a hybrid attendance model, with most employees working together at least two days a week, subject to individual and company-wide exceptions for health and safety needs. Throughout this extended period, we implemented and updated protocols in line with (and some more conservative than) the Centers for Disease Control and/or local recommendations to provide a safe work environment, including daily attestations prior to entering the office, mask wearing and physical distancing measures, protective workspace barriers, and encouraging vaccination. We will continue monitoring the COVID-19 pandemic and will adjust the hybrid attendance model, and related protocols, as appropriate.

**Corporate Information**

The Company was formed as a Maryland corporation on August 23, 2017. Our principal executive offices are located at 590 Madison Avenue, 33rd Floor, New York, NY 10022, and our telephone number is (212) 547-2631. Our website is www.brightspire.com. We make available, free of charge, on our website, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to these reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as soon as reasonably practicable after these forms are filed with, or furnished to, the SEC. Our website address is included in this Annual Report on Form 10-K as a textual reference only and the information on the website is not incorporated by reference into this Annual Report on Form 10-K. All of our reports, proxy and information statements filed with the SEC can also be obtained at the SEC's website at www.sec.gov.

The Company emphasizes the importance of professional business conduct and ethics through our corporate governance initiatives. Our Board of Directors consists of a majority of independent directors; the audit, compensation, and nominating and corporate governance committees of the Board of Directors are composed exclusively of independent directors. Additionally, the following documents relating to corporate governance are available on our website under "Shareholders—Corporate Governance":

- Corporate Governance Guidelines
- Code of Business Conduct and Ethics
- Code of Ethics for Principal Executive Officer and Senior Financial Officers
- Complaint Procedures for Accounting and Auditing Matters
- Audit Committee Charter
- Compensation Committee Charter
- Nominating and Corporate Governance Committee Charter

These corporate governance documents are also available in print free of charge to any security holder who requests them in writing to: BrightSpire Capital, Inc., Attention: Investor Relations, 590 Madison Avenue, 33rd Floor, New York, New York, 10022. Within the time period required by the rules of the SEC and the NYSE, we will post on our website any amendment to such corporate governance documents.

**Item 1A. Risk Factors**

An investment in our common stock involves a high degree of risk. You should carefully consider the risks described below before deciding to purchase shares of our common stock. If any of the events, contingencies, circumstances or conditions described in the risks below actually occurs, they could have a material adverse effect in our business, results of operations and financial conditions or cause our stock price to decline.

**Risks Related to COVID-19**

***The ongoing COVID-19 pandemic, measures intended to prevent its spread and government actions to mitigate its economic impact have had and may continue to have a material adverse effect on our business, results of operations and financial condition.***

The COVID-19 pandemic is causing significant disruptions to the U.S. and global economies and has contributed to volatility and negative pressure in financial markets. The outbreak has led governments and other authorities around the world to impose measures intended to control its spread, including restrictions on freedom of movement and business operations such as travel bans, border closings, business closures, quarantines and shelter-in-place orders. The significance, extent and duration of the impact of COVID-19 or another pandemic on our business remains largely uncertain and dependent on near-term and future developments that cannot be accurately predicted at this time, such as the continued severity, duration, transmission rate and geographic spread of COVID-19 in the United States, the emergence of new variants, the effectiveness and willingness of people to take COVID-19 vaccines, the extent and effectiveness of the containment measures taken, and the response of the overall economy, the financial markets and the population, particularly in areas in which we operate. The impact of the pandemic and measures to prevent its spread have negatively impacted us and could further negatively impact our business. To the extent current conditions persist or worsen, we expect there to be a materially negative effect on the value of our assets and our results of operations, and, in turn, cash available for distribution to our stockholders. Moreover, many risk factors set forth in this Annual Report should be interpreted as heightened risks as a result of the ongoing and numerous adverse impacts of the COVID-19 pandemic.

Difficulty accessing debt and equity capital on attractive terms, or at all, and severe disruption or instability in the global financial markets or deteriorations in credit and financing conditions may affect our ability to access capital necessary to fund business operations or replace liabilities on a timely basis. This may also adversely affect the valuation of financial assets and liabilities, any of which could result in the inability to make payments under our credit and other borrowing facilities, affect our ability to meet liquidity, net worth, and leverage covenants under such facilities or have a material adverse effect on the value of investments we hold. In addition, the insolvency of one or more of our counterparties could reduce the amount of financing available to us, which would make it more difficult for us to leverage the value of our assets and obtain substitute financing on attractive terms or at all. We have experienced declines in the value of our target assets, as well as adverse developments with respect to the terms and cost of financing available to us, and have previously received margin calls, default notices and deficiency letters from certain of our financing counterparties, which have been resolved. Any or all of these impacts could result in reduced net investment income and cash flow, as well as an impairment of our investments, which reductions and impairments could be material.

Additionally, the economic impacts of the pandemic may continue to impact the financial stability of certain loans and loan borrowers underlying the residential and commercial securities and loans that we own, leading to loan delinquencies and/or defaults, or requests for concessions or forbearance. Elevated levels of delinquency or default would have an adverse impact on our income and the value of our assets and may require us to repay amounts under our master repurchase facilities and we can provide no assurance that we will have funds available to make such payments. Any forced sales of loans, securities or other assets that secure our repurchase and other financing arrangements in the current environment would likely be on terms less favorable to us than might otherwise be available in a regularly functioning market and could result in deficiency judgments and other claims against us.

In response to the pandemic, the U.S. government has taken various actions to support the economy and the continued functioning of the financial markets. There can be no assurance as to how, in the long term, such actions by the U.S. government will affect the efficiency, liquidity and stability of the financial and mortgage markets. To the extent the financial or mortgage markets do not respond favorably to any of these actions, or such actions do not function as intended, our business, results of operations and financial condition may continue to be materially adversely affected. Moreover, certain actions taken by U.S. or other governmental authorities, including the Federal Reserve, that are intended to ameliorate the macroeconomic effects of COVID-19 may harm our business. Decreases in short-term interest rates, such as those announced by the Federal Reserve late in our 2019 fiscal year and during the first fiscal quarter of 2020, may have a negative impact on our results, as we have certain assets and liabilities which are sensitive to changes in interest rates. These market interest rate declines may negatively affect our results of operations. In addition, if interest rates continue to decline as a result of demand for U.S. Treasury securities and the activities of the Federal Reserve, prepayments on our assets are likely to increase due to refinancing activity, which could have a material adverse effect on our result of operations.

The rapid development and fluidity of the circumstances resulting from this pandemic preclude any prediction as to the ultimate adverse impact of COVID-19 on our business. Nevertheless, COVID-19 and the current financial, economic and capital markets environment, and future developments in these and other areas present material uncertainty and risk with respect to our performance, financial condition, results of operations and cash flows.

***Our inability to access funding or the terms on which such funding is available could have a material adverse effect on our financial condition, particularly in light of ongoing market dislocations resulting from the COVID-19 pandemic.***

Issues related to financing are exacerbated in times of significant dislocation in the financial markets, such as those being experienced now related to the COVID-19 pandemic. It is possible our lenders will become unwilling or unable to provide us with financing and we could be forced to sell our assets at an inopportune time when prices are depressed. In addition, if the regulatory capital requirements imposed on our lenders change, they may be required to significantly increase the cost of the financing that they provide to us. Our lenders also have revised and may continue to revise their eligibility requirements for the types of assets they are willing to finance or the terms of such financings, including haircuts and requiring additional collateral in the form of cash, based on, among other factors, the regulatory environment and their management of actual and perceived risk, particularly with respect to assignee liability. These events may negatively impact our ability to fund our operations, meet financial obligation and finance target asset acquisitions.

***In connection with the market disruptions resulting from the COVID-19 pandemic, we changed our interest rate hedging strategy and closed out of, or terminated a portion of our interest rate hedges, incurring realized losses. As a result, interest rate risk exposure that is associated with certain of our assets and liabilities is no longer being hedged in the manner that we previously used to address interest rate risk and our revised strategy to address interest rate risk may not be effective and could result in the incurrence of future realized losses.***

In response to the market dislocations resulting from the global pandemic of COVID-19, we made the determination that certain of our interest rate hedges were no longer effective in hedging asset market values and, as of March 27, 2020, had terminated or closed out a portion of our outstanding interest rate hedges and, overall, incurred realized losses. While we are monitoring market conditions and determining when we believe it would be appropriate and effective to re-implement interest rate hedging strategies, including by taking into account our future business activities and assets and liabilities, we will be exposed to the impact that changes in benchmark interest rates may have on the value of the loans, securities and other assets we own that are sensitive to interest rate changes, as well as long-term debt obligations that are sensitive to interest rate changes. Moreover, to the extent the value of loans and securities we own fluctuate as a result of changes in benchmark interest rates, we may be exposed to margin calls under lending facilities that we use to finance these assets. In the past, our interest rate hedging strategy was intended to be a source of liquidity in meeting margin calls that resulted from asset valuation changes attributable to changes in benchmark interest rates; however, because we have terminated or closed out a portion of our outstanding interest rate hedges, we will not be able to rely on these hedges as such a source of liquidity. Operating our business and maintaining a portfolio of interest rate sensitive loans, securities and other assets without an interest rate risk hedging program in place could expose us to losses and liquidity risks, which could be material and which could negatively impact our results of operations and financial condition. There can be no assurance that future market conditions and our financial condition in the future will enable us to re-establish an effective interest rate risk hedging program, even if in the future we believe it would otherwise be appropriate or desirable to do so.

## Risks Related to Our Company and Our Structure

***We have not established a minimum distribution payment level, and we cannot assure you of our ability to pay distributions in the future.***

We are generally required to distribute to our stockholders at least 90% of our REIT taxable income each year for us to qualify as a REIT under the Internal Revenue Code of 1986 (the “Code”). We have not established a minimum distribution payment level, and our ability to make distributions may be materially and adversely affected by a number of factors, including the risk factors described herein. Distributions to our stockholders, if any, will be authorized by our Board of Directors in its sole discretion and declared by us out of funds legally available therefore and will be dependent upon a number of factors, including our targeted distribution rate, access to cash in the capital markets and other financing sources, historical and projected results of operations, cash flows and financial condition, our view of our ability to realize gains in the future through appreciation in the value of our assets, general economic conditions and economic conditions that more specifically impact our business or prospects, our financing covenants, maintenance of our REIT qualification, applicable provisions of the Maryland General Corporation Law (the “MGCL”) and such other factors as our Board of Directors deems relevant.

We believe that a change in any one of the following factors could adversely affect our results of operations and cash flows and impair our ability to make distributions to our stockholders:

- our ability to make attractive investments;
- margin calls or other expenses that reduce our cash flows;
- defaults or prepayments in our investment portfolio or decreases in the value of our investment portfolio; and
- the fact that anticipated operating expense levels may not prove accurate, as actual results may vary from estimates.

For example, in April 2020, our Board of Directors suspended distributions due to the volatility and unprecedented market conditions caused by the COVID-19 pandemic and began declaring distributions beginning with the quarter ended March 31, 2021. However, no assurance can be given that we will be able to make distributions to our stockholders at any time in the future or that the level of any distributions we do make to our stockholders will achieve a market yield or increase or even be maintained over time, any of which could materially and adversely affect us.

In addition, distributions out of our current earnings and profits that we make to our stockholders will generally be taxable to our stockholders as ordinary income. However, a portion of our distributions may be designated by us as (i) “capital gain dividends” to the extent that they are attributable to capital gain income recognized by us, (ii) “qualified dividend income,” or

(iii) may constitute a return of capital to the extent that they exceed our current earnings and profits as determined for U.S. federal income tax purposes. A return of capital is not taxable, but has the effect of reducing the basis of a stockholder's investment in our common stock.

***Certain provisions of Maryland law may limit the ability of a third party to acquire control of us.***

Certain provisions of the MGCL may have the effect of inhibiting a third party from acquiring our Company or of impeding a change of control under circumstances that otherwise could provide our Company's stockholders with the opportunity to realize a premium over the then-prevailing market price of our common stock, including:

- *"business combination"* provisions that, subject to limitations, prohibit certain business combinations between an "interested stockholder" (defined generally as any person who beneficially owns 10% or more of the voting power of our Company's outstanding shares of voting stock or an affiliate or associate of the corporation who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then-outstanding stock of the corporation) or an affiliate of any interested stockholder and our Company for five years after the most recent date on which the stockholder becomes an interested stockholder and thereafter imposes two super-majority stockholder voting requirements on these combinations; and
- *"control share"* provisions that provide that holders of "control shares" of our Company (defined as outstanding voting shares of stock that, if aggregated with all other shares of stock owned by the acquiror or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise one of three increasing ranges of voting power in electing directors) acquired in a "control share acquisition" (defined as the acquisition of issued and outstanding "control shares") have no voting rights except to the extent approved by the affirmative vote of the holders entitled to cast two-thirds of the votes entitled to be cast on the matter, excluding all interested shares.

In accordance with Maryland Business Combination Act our Board of Directors has exempted any business combinations between us and any person, provided that any such business combination is first approved by our Board of Directors. Consequently, the five-year prohibition and the super-majority vote requirements will not apply to any future business combinations between us and any of our interested stockholders (or their affiliates) that are first approved by our Board of Directors, including any future business combination with the OP or any current or future affiliates of the OP. Our bylaws contain a provision exempting us from the Maryland Control Share Acquisition Act. If this resolution is revoked or repealed, the statute may discourage others from trying to acquire control of us and increase the difficulty of consummating any offer. There can be no assurance that these resolutions or exemptions will not be amended or eliminated at any time in the future.

Additionally, Title 3, Subtitle 8 of the MGCL permits our Board of Directors, without stockholder approval and regardless of what currently is provided in our charter and our bylaws, to implement certain takeover defenses, such as a classified board, some of which we do not have.

***Ownership limitations may delay, defer or prevent a transaction or a change in our control that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders.***

In order for us to maintain our qualification as a REIT under the Code, not more than 50% of the value of the outstanding shares of our capital stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) during the last half of a taxable year. Our charter, with certain exceptions, authorizes our Board of Directors to take the actions that are necessary or appropriate to preserve our qualification as a REIT. Unless exempted by our Board of Directors, no person may actually or constructively own more than 9.8% of the aggregate of the outstanding shares of our capital stock (as defined in our charter) by value or 9.8% of the aggregate of the outstanding shares of our common stock (as defined in our charter) by value or by number of shares, whichever is more restrictive. Our Board of Directors, in its sole discretion, may exempt (prospectively or retroactively) a person from this limitation if it obtains such representations, covenants and undertakings as it deems appropriate to conclude that granting the exemption will not cause us to lose our status as a REIT. These ownership limitations in our charter are standard in REIT charters and are intended to provide added assurance of compliance with the tax law requirements, and to reduce administrative burdens. However, these ownership limits might also delay, defer or prevent a transaction or a change in control that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders or result in the transfer of shares acquired in excess of the ownership limits to a trust for the benefit of a charitable beneficiary and, as a result, the forfeiture by the acquirer of the benefits of owning the additional shares.

***Our charter contains provisions that make removal of our directors difficult, which makes it more difficult for our stockholders to effect changes to our management and may prevent a change in control of our Company that is otherwise in the best interests of our stockholders.***

Our charter provides that a director may be removed only for cause and then only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. Vacancies on our Board of Directors may be filled only by the affirmative vote of a majority of the remaining directors then in office, even if the remaining directors do not constitute a quorum, and directors elected to fill a vacancy will serve for the full term of the class of directors in which the vacancy occurred. These requirements make it more difficult for our stockholders to effect changes to our management by removing and replacing directors and may prevent a change in control of our company that is otherwise in the best interests of our stockholders.

***Our charter permits our Board of Directors to issue stock with terms that may subordinate the rights of our common stockholders or discourage a third party from acquiring us in a manner that could result in a premium price to stockholders.***

Our Board of Directors may classify or reclassify any unissued shares of common stock, classify any unissued shares of our preferred stock, as applicable, and reclassify any previously classified but unissued shares of our preferred stock into other classes or series of stock and set the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption of any such stock. Thus, our Board of Directors could authorize the issuance of preferred stock with priority as to distributions and amounts payable upon liquidation over the rights of the holders of our common stock. Such preferred stock could also have the effect of delaying, deferring or preventing a change in control of us, including an extraordinary transaction (such as a merger, tender offer or sale of all or substantially all of our assets) that might provide a premium price to holders of our common stock. Additionally, our Board of Directors may amend our charter from time to time to increase or decrease the aggregate number of authorized shares of stock or the number of authorized shares of any class or series of stock without stockholder approval.

***Our umbrella partnership real estate investment trust, or UPREIT, structure may result in potential conflicts of interest with members of our operating company whose interests may not be aligned with those of stockholders.***

Members of our operating company have the right to vote on certain amendments to the limited liability company agreement, as well as on certain other matters. Persons holding such voting rights may exercise them in a manner that conflicts with the interests of our stockholders. As managing member of our operating company, we are obligated to act in a manner that is in the best interest of our operating company. Circumstances may arise in the future when the interests of members in our operating company may conflict with the interests of our stockholders. These conflicts may be resolved in a manner stockholders do not believe are in their best interests.

***Failure to obtain, maintain or renew required licenses and authorizations necessary to operate our mortgage-related activities may have a material adverse effect on us.***

We are required to obtain, maintain or renew certain licenses and authorizations (including “doing business” authorizations and licenses to act as a commercial mortgage lender) from U.S. federal or state governmental authorities, government sponsored entities or similar bodies in connection with some or all of our mortgage-related activities. There is no assurance that we will be able to obtain, maintain or renew any or all of the licenses and authorizations that we require or that we will avoid experiencing significant delays in connection therewith. Our failure to obtain, maintain or renew licenses will restrict our options and ability to engage in desired activities, and could subject us to fines, suspensions, terminations and various other adverse actions if it is determined that we have engaged without the requisite licenses or authorizations in activities that required a license or authorization, which could have a material adverse effect on us.

***We are highly dependent on information systems and third-parties, and system failures or cybersecurity incidents incurred by us or the third-parties that we rely on could significantly disrupt our ability to operate our business.***

Computer malware, viruses, computer hacking and phishing attacks have become more prevalent in our industry and while we have not experienced any such attacks since our inception, we may be subject to such attempted attacks from time to time. We rely heavily on financial, accounting and other data processing systems maintained by us and by third parties with whom we contract for information technology, network, data storage and other related services. Although we have not detected a material cybersecurity breach to date, financial services institutions and lenders have reported material breaches of their systems, some of which have been significant. Even with appropriate security measures and procedures in place, not every breach can be prevented or detected. There is no assurance that we, or the third parties that facilitate our business activities, have not or will not experience a breach. An externally caused information security incident or an internally caused issue, such as failure to control access to sensitive systems, could materially interrupt business operations or cause disclosure or modification of sensitive or confidential information and could result in material financial loss, loss of competitive position, regulatory actions, breach of contracts, reputational harm or legal liability. While we maintain cybersecurity specific insurance for both first-party losses (breach response, ransomware, data loss, business interruption, contingent business interruption, social engineering coverage, system failure and hardware replacement) and third-party losses (breach demands, regulatory penalties, media liability), such insurance may not be sufficient to address any such losses.

## Risks Related to Our Business and Our Investments

***We terminated our relationship with our former manager, which could delay or hinder implementation of our investment strategy, adversely affect our results of operations and financial condition and/or limit our ability to realize some or all of the targeted benefits of the Internalization.***

On April 30, 2021, we completed the Internalization of our management and operating functions and terminated the management agreement with our external manager. Pursuant to the Internalization, we extended offers of employment to certain employees of our external manager who, prior to the Internalization, had contributed substantially to our investment, underwriting, portfolio and asset management, loan servicing, financial reporting, treasury, legal, tax, credit, risk and compliance responsibilities employment, which offers were accepted, and entered into an employment agreement with Mr. Michael J. Mazzei, our Chief Executive Officer. Our executive team consists of individuals who were previously employed by, but are no longer affiliated with, the manager, specifically: Michael J. Mazzei, Chief Executive Officer; Andrew E. Witt, President and Chief Operating Officer; Frank V. Saracino, Chief Financial Officer and Executive Vice President; and David A. Palamé, General Counsel, Secretary and Executive Vice President. Accordingly, we believe that our success depends significantly upon the experience, skill, resources, relationships and contacts of the executive officers and key personnel. The departure of any of these persons from our management team could have a material adverse effect on our performance. Taken together, our ability to achieve our stated objectives and to realize the expected cost savings through the Internalization may be impacted by increased overhead costs and/or management's ability to focus on operating our business.

***We may not be able to hire and retain qualified loan originators or grow and maintain our relationships with key loan brokers, and if we are unable to do so, our ability to implement our business and growth strategies could be limited.***

We depend on our loan originators to generate borrower clients by, among other things, developing relationships with commercial property owners, real estate agents and brokers, developers and others, which we believe leads to repeat and referral business. Accordingly, we must be able to attract, motivate and retain skilled loan originators. The market for loan originators is highly competitive and may lead to increased costs to hire and retain them. We cannot guarantee that we will be able to attract or retain qualified loan originators. If we cannot attract, motivate or retain a sufficient number of skilled loan originators, at a reasonable cost or at all, our business could be materially and adversely affected. We also depend on our network of loan brokers, who generate a significant portion of our loan originations. While we strive to cultivate long-standing relationships that generate repeat business for us, brokers are free to transact business with other lenders. Our competitors also have relationships with some of our brokers and actively compete with us in bidding on loans shopped by these brokers. We also cannot guarantee that we will be able to maintain or develop new relationships with additional brokers.

***Our ability to achieve our investment objectives and to pay distributions depends in substantial part upon our performance and the performance of our third-party servicers.***

Our success depends on the identification and origination or acquisition of investments and the management of our assets and operation of our day-to-day activities. If we perform poorly and as a result are unable to originate and/or acquire our investments successfully, we may be unable to achieve our investment objectives or to pay distributions to stockholders at presently contemplated levels, if at all. Our platform may not be scalable if our business grows substantially, we may be unable to make significant investments on a timely basis or at reasonable costs, or our service providers may be strained by our growth, which could disrupt our business and operations. Similarly, if our third-party servicers perform poorly, we may be unable to realize all cash flow associated with our real estate debt and debt-like investments.

***Our CRE debt, select equity and securities investments are subject to the risks typically associated with real estate.***

Our CRE debt, select equity and securities investments are subject to the risks typically associated with real estate, including:

- tenant mix;
- real estate conditions, such as an oversupply of or a reduction in demand for real estate space in an area;
- lack of liquidity inherent in the nature of the assets;
- borrower/tenant/operator mix and the success of the borrower/tenant/operator business;
- success of tenant businesses;

- ability to collect interest/loan obligation/principal, including income recognition and recovery of payment-in-kind interest on applicable loan investments;
- property management decisions;
- property location, condition and design;
- competition from comparable types of properties;
- changes in laws that increase operating expenses or limit rents that may be charged;
- changes in national, regional or local economic conditions and/or specific industry segments, including the credit and securitization markets;
- declines in regional or local real estate values;
- declines in regional or local rental or occupancy rates;
- increases in interest rates, real estate tax rates and other operating expenses;
- compliance with environmental laws;
- costs of remediation and liabilities associated with environmental conditions;
- the potential for uninsured or underinsured property losses;
- changes in governmental laws and regulations, including fiscal policies, zoning ordinances and environmental legislation and the related costs of compliance; and
- acts of God, terrorist attacks, social unrest and civil disturbances.

The value of each investment is affected significantly by its ability to generate cash flow and net income, which in turn depends on the amount of financing/interest payments, rental or other income that can be generated net of expenses required to be incurred with respect to the investment. Many expenses associated with properties (such as operating expenses and capital expenses) cannot be reduced when there is a reduction in income from the properties. Some of our CRE securities may be subject to the risk of first loss and therefore could be adversely affected by payment defaults, delinquencies and others of these risks.

These factors may have a material adverse effect on the value and the return that we can realize from our assets, as well as the ability of our borrowers to pay their loans and the ability of the borrowers on the underlying loans securing our securities to pay their loans.

***The B-Notes that we have acquired and may acquire in the future may be subject to additional risks related to the privately negotiated structure and terms of the transaction, which may result in significant operating losses to us and may limit our ability to make distributions to our stockholders.***

We have and may continue to acquire B-Notes. A B-Note is a mortgage loan typically (1) secured by a first mortgage on a single large commercial property or group of related properties (and therefore reflect the risks associated with significant concentration) and (2) subordinated to an A-Note secured by the same first mortgage on the same collateral. A privately negotiated intercreditor agreement between the holders of the A-Note and B-Note may restrict the rights of the B-Note holders. In particular, the intercreditor agreement may prohibit the B-Note holder from calling the loan, making modifications with respect to the loan or filing a bankruptcy petition without the consent of the A-Note holder. As a result, to the extent that we acquire B-Notes, the A-Note holder may take actions that we do not agree with and that are not in our stockholders' best interests.

In addition, because the rights of the B-Note holder are subordinated to the rights of the A-Note holder, the B-Note may be the first to incur loss if the loan does not perform and the collateral value diminishes. As a result, if a borrower defaults, there may not be sufficient funds remaining for B-Note holders after payment to the A-Note holders. If there are insufficient funds after payment to the A-Note holders, we could incur significant losses related to our B-Notes, which would result in operating losses for us and may limit our ability to make distributions to our stockholders.

***The mezzanine loan assets that we have acquired and may acquire in the future will involve greater risks of loss than senior loans secured by income-producing properties.***

We have and may continue to acquire mezzanine loans, which take the form of subordinated loans secured by second mortgages on the underlying property or loans secured by a pledge of the ownership interests of either the entity owning the property or a pledge of the ownership interests of the entity that owns the interest in the entity owning the property. These types of assets involve a higher degree of risk than long-term senior mortgage lending secured by income-producing real property, because the loan may become unsecured as a result of foreclosure by the senior lender. In addition, mezzanine loans may have higher loan-to-value ratios than conventional mortgage loans, resulting in less equity in the property and increasing the risk of loss of principal. If a borrower defaults on our mezzanine loan or debt senior to our loan, or in the event of a borrower bankruptcy, our mezzanine loan will be satisfied only after the senior debt is paid in full. Where debt senior to our loan exists, the presence of intercreditor arrangements between the holder of the mortgage loan and us, as the mezzanine lender, may limit our ability to amend our loan documents, assign our loans, accept prepayments, exercise our remedies and control decisions made in bankruptcy proceedings relating to borrowers. As a result, we may not recover some or all of our investment, which could result in losses. In addition, even if we are able to foreclose on the underlying collateral following a default on a mezzanine loan, we would be substituted for the defaulting borrower and, to the extent income generated on the underlying property is insufficient to meet outstanding debt obligations on the property, may need to commit substantial additional capital to stabilize the property and prevent additional defaults to lenders with existing liens on the property. Significant losses related to our mezzanine loans could have a material adverse effect on our results of operations and our ability to make distributions to our stockholders.

***Participating interests may not be available and, even if obtained, may not be realized.***

In connection with the origination or acquisition of certain structured finance assets, subject to maintaining our qualification as a REIT, we have obtained and may continue to obtain participating interests, or equity “kickers,” in the owner of the property that entitle us to payments based upon a development’s cash flow or profits or any increase in the value of the property that would be realized upon a refinancing or sale thereof. Competition for participating interests is dependent to a large degree upon market conditions. Participating interests are more difficult to obtain when real estate financing is available at relatively low interest rates. Participating interests are not insured or guaranteed by any governmental entity and are therefore subject to the general risks inherent in real estate investments. Therefore, even if we are successful in making investments that provide for participating interests, there can be no assurance that such interests will result in additional payments to us.

***Any distressed loans or investments we make, or loans and investments that later become distressed, may subject us to losses and other risks relating to bankruptcy proceedings.***

While our investment strategy focuses primarily on investments in “performing” real estate-related interests, our investment program may include making distressed investments from time to time (e.g., investments in defaulted, out-of-favor or distressed bank loans and debt securities) or may involve investments that become “non-performing” following our acquisition thereof. Certain of our investments may, therefore, include specific securities of companies that typically are highly leveraged, with significant burdens on cash flow and, therefore, involve a high degree of financial risk. During an economic downturn or recession, securities of financially troubled or operationally troubled issuers are more likely to go into default than securities of other issuers. Securities of financially troubled issuers and operationally troubled issuers are less liquid and more volatile than securities of companies not experiencing financial difficulties. The market prices of such securities are subject to erratic and abrupt market movements and the spread between bid and asked prices may be greater than normally expected. Investment in the securities of financially troubled issuers and operationally troubled issuers involves a high degree of credit and market risk.

In certain limited cases (e.g., in connection with a workout, restructuring and/or foreclosing proceedings involving one or more of our debt investments), the success of our investment strategy with respect thereto will depend, in part, on our ability to effectuate loan modifications and/or restructures. Identifying and implementing any such restructuring programs entails a high degree of uncertainty. There can be no assurance that we will be able to successfully identify and implement restructuring programs. Further, such modifications and/or restructuring may entail, among other things, a substantial reduction in the interest rate and a substantial writedown of the principal of such loan, debt securities or other interests. However, even if a restructuring were successfully accomplished, a risk exists that, upon maturity of such real estate loan, debt securities or other interests replacement “takeout” financing will not be available.

These financial difficulties may never be overcome and may cause borrowers to become subject to bankruptcy or other similar administrative proceedings. There is a possibility that we may incur substantial or total losses on our investments and in certain circumstances, become subject to certain additional potential liabilities that may exceed the value of our original investment therein. For example, under certain circumstances, a lender who has inappropriately exercised control over the management and policies of a debtor may have its claims subordinated or disallowed or may be found liable for damages suffered by parties as a result of such actions. In any reorganization or liquidation proceeding relating to our investments, we may lose our entire investment, may be required to accept cash or securities with a value less than our original investment and/or may be required to accept payment over an extended period of time. In addition, under certain circumstances, payments to us and distributions by us to the stockholders may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance, preferential payment or similar transaction under applicable bankruptcy and insolvency laws. Furthermore, bankruptcy laws and similar laws applicable to administrative proceedings may delay our ability to realize on collateral for loan positions held by us or may adversely affect the priority of such loans through doctrines such as equitable subordination or may result in a restructure of the debt through principles such as the "cramdown" provisions of the bankruptcy laws.

***Provisions for loan losses and impairment charges are difficult to estimate, particularly in a challenging economic environment and if they turn out to be incorrect, our results of operations and financial condition could be materially and adversely impacted.***

In a challenging economic environment, we may experience an increase in provisions for loan losses and asset impairment charges, as borrowers may be unable to remain current in payments on loans and declining property values weaken our collateral. Our determination of provision for loan losses requires us to make certain estimates and judgments based on a number of factors, including projected cash flow from the collateral securing our CRE debt, structure, including the availability of reserves and recourse guarantees, likelihood of repayment in full at the maturity of a loan, potential for refinancing and expected market discount rates for varying property types, all of which remain uncertain and are subjective. Some of our investments have limited liquidity or are not publicly traded and so we estimate the fair value of these investments on a quarterly basis. Also, the analysis of the value or income-producing ability of commercial property is highly subjective. Our estimates and judgments may not be correct, particularly during challenging economic environments when market volatility may make it difficult to determine the fair value of certain of our assets and liabilities or the likelihood of repayment of loans we originate. Subsequent valuations and estimates, in light of factors then prevailing, may result in decreases in the values of our assets resulting in impairment charges or increases in loan loss provisions and therefore our results of operations, financial condition and our ability to make distributions to stockholders could be materially and adversely impacted.

***Prepayment rates may adversely affect the value of our portfolio of assets.***

Generally, our borrowers may repay their loans prior to their stated final maturities. In periods of declining interest rates and/or credit spreads, prepayment rates on loans generally increase. If general interest rates or credit spreads decline at the same time, the proceeds of such prepayments received during such periods are likely to be reinvested by us in assets yielding less than the yields on the assets that were prepaid. In addition, the value of our assets may be affected by prepayment rates on loans. If we originate or acquire mortgage-related securities or a pool of mortgage securities, we anticipate that the underlying mortgages will prepay at a projected rate generating an expected yield. If we purchase assets at a premium to par value, when borrowers prepay their loans faster than expected, the corresponding prepayments on the mortgage-related securities may reduce the expected yield on such securities because we will have to amortize the related premium on an accelerated basis. Conversely, if we purchase assets at a discount to par value, when borrowers prepay their loans slower than expected, the decrease in corresponding prepayments on the mortgage-related securities may reduce the expected yield on such securities because we will not be able to accrete the related discount as quickly as originally anticipated. In addition, as a result of the risk of prepayment, the market value of the prepaid assets may benefit less than other fixed income securities from declining interest rates.

Prepayment rates on loans may be affected by a number of factors including, but not limited to, the then-current level of interest rates and credit spreads, fluctuations in asset values, the availability of mortgage credit, the relative economic vitality of the area in which the related properties are located, the servicing of the loans, possible changes in tax laws, other opportunities for investment, and other economic, social, geographic, demographic and legal factors and other factors beyond our control. Consequently, such prepayment rates cannot be predicted with certainty and no strategy can completely insulate us from prepayment or other such risks.

***We invest in preferred equity interests, which involve a greater risk than conventional senior, junior or mezzanine debt financing.***

Our preferred equity investments involve a higher degree of risk than conventional debt financing due to a variety of factors, including their non-collateralized nature and subordinated ranking to other loans and liabilities of the entity in which such preferred equity is held. Accordingly, if the issuer defaults on our investment, we would only be able to proceed against such entity in accordance with the terms of the preferred security, and not against any property owned by such entity. Furthermore, in the event of bankruptcy or foreclosure, we would only be able to recoup our investment after all lenders to, and other creditors of, such entity are paid in full. As a result, we may lose all or a significant part of our investment, which could result in significant losses, have a material adverse effect on our results of operations and our ability to make distributions to our stockholders.

***We invest in commercial properties subject to net leases, which could subject us to losses.***

We invest in commercial properties subject to net leases. Typically, net leases require the tenants to pay substantially all of the operating costs associated with the properties. As a result, the value of, and income from, investments in commercial properties subject to net leases will depend, in part, upon the ability of the applicable tenant to meet its obligations to maintain the property under the terms of the net lease. If a tenant fails or becomes unable to so maintain a property, we will be subject to all risks associated with owning the underlying real estate. Under many net leases, however, the owner of the property retains certain obligations with respect to the property, including, among other things, the responsibility for maintenance and repair of the property, to provide adequate parking, maintenance of common areas and compliance with other affirmative covenants in the lease. If we were to fail to meet any such obligations, the applicable tenant could abate rent or terminate the applicable lease, which could result in a loss of our capital invested in, and anticipated profits from, the property.

We expect that some commercial properties subject to net leases in which we invest generally will be occupied by a single tenant and, therefore, the success of these investments will be materially dependent on the financial stability of each such tenant. A default of any such tenant on its lease payments to us would cause us to lose the revenue from the property and cause us to have to find an alternative source of revenue to meet any mortgage payment and prevent a foreclosure if the property is subject to a mortgage. In the event of a default, we may experience delays in enforcing our rights as landlord and may incur substantial costs in protecting our investment and re-letting our property. If a lease is terminated, we may also incur significant losses to make the leased premises ready for another tenant and experience difficulty or a significant delay in re-leasing such property.

In addition, net leases typically have longer lease terms and, thus, there is an increased risk that contractual rental increases in future years will fail to result in fair market rental rates during those years.

We may acquire these investments through sale-leaseback transactions, which involve the purchase of a property and the leasing of such property back to the seller thereof. If we enter into a sale-leaseback transaction, we will seek to structure any such sale-leaseback transaction such that the lease will be characterized as a “true lease” for U.S. federal income tax purposes, thereby allowing us to be treated as the owner of the property for U.S. federal income tax purposes. However, we cannot assure you that the Internal Revenue Service (the “IRS”) will not challenge such characterization. In the event that any such sale-leaseback transaction is challenged and recharacterized as a financing transaction or loan for U.S. federal income tax purposes, deductions for depreciation and cost recovery relating to such property would be disallowed. If a sale-leaseback transaction were so recharacterized, we might fail to satisfy the REIT qualification “asset tests” or “income tests” and, consequently, lose our REIT status effective with the year of recharacterization. Alternatively, the amount of our REIT taxable income could be recalculated, which might also cause us to fail to meet the REIT distribution requirement for a taxable year.

***We invest in CRE securities, including CMBS and CDOs, which entail certain heightened risks and are subject to losses.***

We invest in a variety of CRE securities, including CMBS, CDOs and other subordinate securities. The market for CRE securities is dependent upon liquidity for refinancing and may be negatively impacted by a slowdown in new issuance. For example, the equity interests of CDOs are illiquid and often must be held by a REIT. CRE securities such as CMBS may be subject to particular risks, including lack of standardized terms and payment of all or substantially all of the principal only at maturity rather than regular amortization of principal. The value of CRE securities may change due to interest rates, credit spreads, as well as shifts in the market’s perception of issuers and regulatory or tax changes adversely affecting the CRE debt market as a whole. The exercise of remedies and successful realization of liquidation proceeds relating to CRE securities may be highly dependent upon the performance of the servicer or special servicer. Ratings for CRE securities can also adversely affect their value. Moreover, some CRE securities, such as CDO notes, generally do not qualify as real estate assets for purposes of the gross asset and income requirements that apply to REITs, which could adversely affect our ability to qualify for tax treatment as a REIT.

Our investments in CMBS and CDOs are also subject to losses. In general, losses on a mortgaged property securing a mortgage loan included in a securitization will be borne first by the equity holder of the property, then by a cash reserve fund or letter of credit, if any, then by the holder of a mezzanine loan or B-Note, if any, then by the “first loss” subordinated security holder (generally, the “B-Piece” buyer) and then by the holder of a higher-rated security. In the event of default and the exhaustion of any equity support, reserve fund, letter of credit, mezzanine loans or B-Notes, and any classes of securities junior to those in which we invest, we will not be able to recover all of our investment in the securities we purchase. In addition, if the underlying mortgage portfolio has been overvalued by the originator, or if the values subsequently decline and, as a result, less collateral is available to satisfy interest and principal payments due on the related CMBS or CDO, there would be an increased risk of loss. The prices of lower credit quality securities are generally less sensitive to interest rate changes than more highly rated investments, but more sensitive to adverse economic downturns or individual issuer developments.

***Adverse changes in general economic conditions could adversely impact our business, financial condition and results of operations.***

Our business is also closely tied to general economic conditions of the areas where our investments are located and in the real estate industry generally. As a result, our economic performance, the value of our CRE debt and debt-like investments, real estate and real estate related investments, and our ability to implement our business strategies may be significantly and adversely affected by changes in economic conditions in the United States where a substantial number of our investments are located and in international geographic areas, as applicable. The condition of the real estate markets in which we operate is cyclical and depends on the condition of the economy in the United States and Europe and elsewhere as a whole and to the perceptions of investors of the overall economic outlook. Rising interest rates, declining employment levels, declining demand for real estate, declining real estate values or periods of general economic slowdown or recession, increasing political instability or uncertainty, or the perception that any of these events may occur have negatively impacted the real estate market in the past and may in the future negatively impact our operating performance. Declining real estate values could reduce our level of new loan originations and make borrowers less likely to service the principal and interest on our CRE debt investments. Slower than expected economic growth pressured by a strained labor market, could result in lower occupancy rates and lower lease rates across many property types, which could create obstacles for us to achieve our business plans. In addition, the economic condition of each local market where we operate may depend on one or more key industries within that market, which, in turn, makes our business sensitive to the performance of those industries.

Adverse changes in general economic conditions may also disrupt the debt and equity capital markets and lack of access to capital or prohibitively high costs of obtaining or replacing capital may materially and adversely affect our business.

We have only a limited ability to change our portfolio promptly in response to economic or other conditions. Certain significant expenditures, such as debt service costs, real estate taxes, and operating and maintenance costs, are generally not reduced when market conditions are poor. These factors impede us from responding quickly to changes in the performance of our investments and could adversely impact our business, financial condition and results of operations.

***Shifts in consumer patterns and advances in communication and information technology that affect the use of traditional retail, hotel and office space may have an adverse impact on the value of certain of our debt and equity investments.***

In recent periods, and accelerated by the restrictions and lockdowns associated with the COVID-19 pandemic, sales by online retailers have increased, and many retailers operating brick and mortar stores have made online sales a vital piece of their businesses. Some of our debt and equity investments involve exposure to the ongoing operations of brick and mortar retailers. Our loans collateralized by hotels, retail and office properties and mezzanine loans and preferred equity interests are disproportionately impacted by the effects of COVID-19.

Technology has also impacted the use of office space and the adaption of such technology has also been accelerated by the restrictions and lockdowns associated with the COVID-19 pandemic. The office market has seen a shift in the use of space due to the availability of practices such as telecommuting, videoconferencing and, prior to the pandemic, renting shared work spaces. These trends have led to more efficient workspace layouts and a decrease in square feet leased per employee. While the social distancing required as a result of COVID-19 may lead some tenants to require more space, at least in the short term, the continuing impact of technology could result in tenant downsizings upon renewal, or in tenants seeking office space outside of the typical central business district. These trends could continue to cause an increase in vacancy rates and a decrease in demand for new supply, and could impact the value of our debt and equity investments.

Technology platforms such as AirBnB and VRBO have provided leisure and business travelers with lodging options outside of the hotel industry. These services effectively have increased the supply of rooms available in many major markets. This additional supply could negatively impact the occupancy and room rates at more traditional hotels.

As a result of the foregoing, the value of our debt and equity investments, and results of operations could be adversely affected.

***We are subject to significant competition, and we may not be able to compete successfully for investments, which could have a material adverse effect on our business, financial condition and results of operations.***

We are subject to significant competition for attractive investment opportunities from other financing institutions and investors, including those focused primarily on real estate and real estate-related investment activities, some of which have greater financial resources than we do, including publicly traded REITs, non-traded REITs, insurance companies, commercial and investment banking firms, private institutional funds, hedge funds, private equity funds and other investors. Our competitors, including other REITs, may raise significant amounts of capital, and may have investment objectives that overlap with our investment objectives, which may create additional competition for lending and other investment opportunities. Some of our competitors may have a lower cost of funds and access to funding sources that may not be available to us or are only available to us on substantially less attractive terms. Many of our competitors are not subject to the operating constraints associated with REIT tax compliance or maintenance of an exclusion or exemption from the Investment Company Act. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more lending relationships than we can. If we pay higher prices for investments or originate loans on less advantageous terms to us, our returns may be lower and the value of our assets may not increase or may decrease significantly below the amount we paid for such assets. As we reinvest capital, we may not realize risk adjusted returns that are as attractive as those we have realized in the past. In addition, further changes in the financial regulatory regime could decrease the current restrictions on banks and other financial institutions and allow them to compete with us for investment opportunities that were previously not available to them.

As a result of this competition, desirable loans and investments in our target assets may be limited in the future, and we may not be able to take advantage of attractive lending and investment opportunities from time to time. In addition, reduced CRE transaction volume could increase competition for available investment opportunities. We can provide no assurance that we will be able to identify and originate loans or make investments that are consistent with our investment objectives. We cannot assure you that the competitive pressures we face will not have a material adverse effect on our business, financial condition and results of operations.

***We may not have control over certain of our loans and investments.***

Our ability to manage our portfolio of loans and investments may be limited by the form in which they are made. In certain situations, we may:

- acquire investments subject to rights of senior classes, special servicers or collateral managers under intercreditor, servicing agreements or securitization documents;
- pledge our investments as collateral for financing arrangements;
- acquire only a minority and/or a noncontrolling participation in an underlying investment;
- co-invest with others through partnerships, joint ventures or other entities, thereby acquiring noncontrolling interests; or
- rely on independent third-party management or servicing with respect to the management of an asset.

Therefore, we may not be able to exercise control over all aspects of our loans or investments. Such financial assets may involve risks not present in investments where senior creditors, junior creditors, servicers or third parties controlling investors are not involved. Our rights to control the process following a borrower default may be subject to the rights of senior or junior creditors or servicers whose interests may not be aligned with ours. A partner or co-venturer may have financial difficulties resulting in a negative impact on such asset, may have economic or business interests or goals that are inconsistent with ours, or may be in a position to take action contrary to our investment objectives. In addition, we may, in certain circumstances, be liable for the actions of our partners or co-venturers.

***Most of the commercial mortgage loans that we originate or acquire are non-recourse loans.***

Except for customary non-recourse carve-outs for certain actions and environmental liability, most commercial mortgage loans are effectively non-recourse obligations of the sponsor and borrower, meaning that there is no recourse against the assets of the borrower or sponsor other than the underlying collateral. In the event of any default under a commercial mortgage loan held directly by us, we will bear a risk of loss to the extent of any deficiency between the value of the collateral and the principal of and accrued interest on the mortgage loan, which could materially and adversely affect us. There can be no assurance that the value of the assets securing our commercial mortgage loans will not deteriorate over time due to factors beyond our control, as was the case during the credit crisis and the economic recession that began in 2008. Even if a commercial mortgage loan is recourse to the borrower (or if a non-recourse carve-out to the borrower applies), in most cases, the borrower's assets are limited primarily to its interest in the related mortgaged property. Further, although a commercial mortgage loan may provide for limited recourse to a principal or affiliate of the related borrower, there is no assurance that any recovery from such principal or affiliate will be made or that such principal's or affiliate's assets would be sufficient to pay any otherwise recoverable claim. In the event of the bankruptcy of a borrower, the loan to such borrower will be deemed to be secured only to the extent of the value of the underlying collateral at the time of bankruptcy (as determined by the bankruptcy court), and the lien securing the loan will be subject to the avoidance powers of the bankruptcy trustee or debtor-in-possession to the extent the lien is unenforceable under state law.

***We may be subject to risks associated with future advance or capital expenditure obligations, such as declining real estate values and operating performance.***

Our CRE debt investments may require us to advance future funds. We may also need to fund capital expenditures and other significant expenses for our real estate property investments. Future funding obligations subject us to significant risks, such as a decline in value of the property, cost overruns and the borrower or tenant may be unable to generate enough cash flow and execute its business plan, or sell or refinance the property, in order to repay its obligations to us. We could determine that we need to fund more money than we originally anticipated in order to maximize the value of our investment even though there is no assurance additional funding would be the best course of action. Further, future funding obligations may require us to maintain higher liquidity than we might otherwise maintain and this could reduce the overall return on our investments. We could also find ourselves in a position with insufficient liquidity to fund future obligations.

***We may be unable to restructure our investments in a manner that we believe maximizes value, particularly if we are one of multiple creditors in a large capital structure.***

In order to maximize value, we may be more likely to extend and work out an investment rather than pursue other remedies such as taking title to collateral. However, in situations where there are multiple creditors in large capital structures, it can be particularly difficult to assess the most likely course of action that a lender group or the borrower may take and it may also be difficult to achieve consensus among the lender group as to major decisions. Consequently, there could be a wide range of potential principal recovery outcomes, the timing of which can be unpredictable, based on the strategy pursued by a lender group or other applicable parties. These multiple creditor situations tend to be associated with larger loans. If we are one of a group of lenders, we may not independently control the decision-making. Consequently, we may be unable to restructure an investment in a manner that we believe would maximize value.

***We have invested in, and may continue to invest in, certain assets with lower credit quality, which will increase our risk of losses and may reduce distributions to stockholders and may adversely affect the value of our common stock.***

We have invested in, and may continue to invest in, unrated or non-investment grade CRE securities or investments whose ratings have been downgraded or withdrawn, enter into leases with unrated tenants or participate in subordinate, unrated or distressed mortgage loans. The non-investment grade ratings for these assets typically result from the overall leverage of the loans, the lack of a strong operating history for the borrower owners or the properties underlying the loans or securities, the borrowers' credit history, the properties' underlying cash flow or other factors. Because the ability of obligors of properties and mortgages, including mortgage loans underlying CMBS, to make rent or principal and interest payments may be impaired during an economic downturn, prices of lower credit quality investments and CRE securities may decline. As a result, these investments may have a higher risk of default and loss than investment grade rated assets and may significantly decline in value. The existing credit support in the securitization structure may be insufficient to protect us against loss of our principal on these investments. Any loss we incur may be significant, reduce distributions to stockholders and adversely affect the value of our common stock.

***Insurance may not cover all potential losses on CRE investments, which may impair the value of our assets.***

We generally require that each of the borrowers under our CRE debt investments obtain comprehensive insurance covering the collateral, including liability, fire and extended coverage. We also generally obtain insurance directly on any property we acquire. However, there are certain types of losses, generally of a catastrophic nature, such as earthquakes, floods and hurricanes that may be uninsurable or not economically insurable. We may not obtain, or require borrowers to obtain, certain types of insurance if it is deemed commercially unreasonable. Inflation, changes in building codes and ordinances, environmental considerations and other factors also might make it infeasible to use insurance proceeds to replace a property if it is damaged or destroyed. Further, it is possible that our borrowers could breach their obligations to us and not maintain sufficient insurance coverage. Under such circumstances, the insurance proceeds, if any, might not be adequate to restore the economic value of the property, which might decrease the value of the property and in turn impair our investment.

***The leases at the properties underlying CRE debt investments or the properties held by us may not be relet or renewed on favorable terms, or at all, which may result in a reduction in our net income, and as a result we may be required to reduce or eliminate cash distributions to stockholders.***

Our investments in real estate will be pressured if economic conditions and rental markets continue to be challenging. For instance, upon expiration or early termination of leases for space located at our properties, the space may not be relet or, if relet, the terms of the renewal or reletting (including the cost of required renovations or concessions to tenants) may be less favorable than current lease terms. We may be receiving above market rental rates which will decrease upon renewal, which will adversely impact our income and could harm our ability to service our debt and operate successfully. Weak economic conditions would likely reduce tenants' ability to make rent payments in accordance with the contractual terms of their leases and lead to early termination of leases. Furthermore, commercial space needs may contract, resulting in lower lease renewal rates and longer releasing periods when leases are not renewed. Any of these situations may result in extended periods where there is a significant decline in revenues or no revenues generated by a property. Additionally, to the extent that market rental rates are reduced, property-level cash flow would likely be negatively affected as existing leases renew at lower rates. If we are unable to relet or renew leases for all or substantially all of the space at these properties, if the rental rates upon such renewal or reletting are significantly lower than expected, or if our reserves for these purposes prove inadequate, we will experience a reduction in net income and may be required to reduce or eliminate cash distributions to stockholders.

***Our investment strategy may not be successful, or there may be delays, in locating or allocating suitable investments, which could limit our ability to make distributions and lower the overall return on stockholders' investment.***

Our investment strategy may not be successful in locating suitable investments on financially attractive terms. If we, are unable to find and allocate suitable investments promptly, we may hold the funds available for investment in an interest-bearing account or invest the proceeds in short-term assets. We expect that the income we earn on these temporary investments will not be substantial. In the event we are unable to timely locate suitable investments, we may be unable or limited in our ability to pay distributions, and we may not be able to meet our investment objectives. Further, the more money we have available for investment, the more difficult it will be to invest the funds promptly and on attractive terms. If we are able to identify suitable investments, it may not be successful in consummating the investment, resulting in increased costs and diversion in the investment professionals’ time, or if consummated, the returns on the investments may be below expectations.

***The due diligence process that we undertake in regard to investment opportunities may not reveal all facts that may be relevant in connection with an investment and if we incorrectly evaluate the risks of our investments, we may experience losses.***

The success of our origination or acquisition of investments significantly depends on the financial stability of the borrowers and tenants underlying such investments. Before making a loan to a borrower, we assess the strength and skills of an entity’s management and other factors that we believe are material to the performance of the investment. In making the assessment and otherwise conducting customary due diligence, we rely on the resources available to us and, in some cases, an investigation by third parties. Appraisals and engineering and environmental reports, as well as a variety of other third-party reports are not guarantees of present or future value. One appraiser may reach a different conclusion than the conclusion that would be reached if a different appraiser were appraising that property. Moreover, the values of the properties may have fluctuated significantly since the appraisals were performed. In addition, any third-party report, including any engineering report, environmental report, site inspection or appraisal represents only the analysis of the individual consultant, engineer or inspector preparing such report at the time of such report, and may not reveal all necessary or desirable repairs, maintenance, remediation and capital improvement items. There can be no assurance that our due diligence processes will uncover all relevant facts or that any investment will be successful. The inability of a single major borrower or tenant, or a number of smaller borrowers or tenants, to meet their payment obligations could result in reduced revenue or losses.

***Because real estate investments are relatively illiquid, we may not be able to vary our portfolio in response to changes in economic and other conditions, which may result in losses to us.***

Many of our investments are illiquid. A variety of factors could make it difficult for us to dispose of any of our assets on acceptable terms even if a disposition is in the best interests of stockholders. We cannot predict whether we will be able to sell any property for the price or on the terms set by us or whether any price or other terms offered by a prospective purchaser would be acceptable to us. We also cannot predict the length of time needed to find a willing purchaser and to close the sale of a property. Certain properties may also be subject to transfer restrictions that materially restrict us from selling that property for a period of time or impose other restrictions, such as a limitation on the amount of financing that can be placed or repaid on that property. We may be required to expend cash to correct defects or to make improvements before a property can be sold, and we cannot provide assurance that we will have cash available to correct those defects or to make those improvements. The Code also places limits on our ability as a REIT to sell certain properties held for fewer than two years.

Borrowers under certain of our CRE debt investments may give their tenants or other persons similar rights with respect to the collateral. Similarly, we may also determine to give our tenants a right of first refusal or similar options. Such rights could negatively affect the residual value or marketability of the property and impede our ability to sell the collateral or the property.

As a result, our ability to sell investments in response to changes in economic and other conditions could be limited. To the extent we are unable to sell any property for its book value or at all, we may be required to take a non-cash impairment charge or loss on the sale, either of which would reduce our earnings. Limitations on our ability to respond to adverse changes in the performance of our investments may have a material adverse effect on our business, financial condition and results of operations and our ability to make distributions to stockholders.

***Our joint venture partners could take actions that decrease the value of an investment to us and lower our overall return.***

We currently have, and may in the future enter into, joint ventures with third parties. We may also make investments in partnerships or other co-ownership arrangements or participations. Such investments may involve risks not otherwise present with other methods of investment, including, for instance, the following risks:

- our joint venture partner in an investment could become insolvent or bankrupt;
- fraud or other misconduct by our joint venture partners;
- we may share decision-making authority with our joint venture partners regarding certain major decisions affecting the ownership of the joint venture and the joint venture investment, such as the management of the CRE debt, sale of the property or the making of additional capital contributions for the benefit of the loan or property, which may prevent us from taking actions that are opposed by our joint venture partner;

- such joint venture partner may at any time have economic or business interests or goals that are or that become in conflict with our business interests or goals, including for example the management of the CRE debt or operation of the properties;
- such joint venture partner may be in a position to take action contrary to our instructions or requests or contrary to our policies or objectives;
- our joint venture partners may be structured differently than us for tax purposes and this could create conflicts of interest and risk to our REIT status;
- we may rely upon our joint venture partners to manage the day-to-day operations of the joint venture and underlying loans or assets, as well as to prepare financial information for the joint venture and any failure to perform these obligations may have a negative impact our performance and results of operations;
- our joint venture partner may experience a change of control, which could result in new management of our joint venture partner with less experience or conflicting interests to ours and be disruptive to our business;
- the terms of our joint ventures could restrict our ability to sell or transfer our interest to a third party when we desire on advantageous terms, which could result in reduced liquidity; and
- our joint venture partners may not have sufficient personnel or appropriate levels of expertise to adequately support our initiatives

Any of the above might subject us to liabilities and thus reduce our returns on our investment with that joint venture partner. In addition, disagreements or disputes between us and our joint venture partner could result in litigation, which could increase our expenses and potentially limit the time and effort our officers and directors are able to devote to our business.

Further, in some instances, we and/or our partner may have the right to trigger a buy-sell arrangement, which could cause us to sell our interest, or acquire our partner's interest, at a time when we otherwise would not have initiated such a transaction. Our ability to acquire our partner's interest may be limited if we do not have sufficient cash, available borrowing capacity or other capital resources. In such event, we may be forced to sell our interest in the joint venture when we would otherwise prefer to retain it.

***Our investments that are not denominated in U.S. dollars subject us to currency rate exposure and may adversely impact our status as a REIT.***

We have investments in triple net leases, other real estate investments and loans that are denominated in euros and the Norwegian kroner, and may in the future have investments denominated in other foreign currencies, which expose us to foreign currency risk due to potential fluctuations in exchange rates between foreign currencies and the U.S. dollar. A change in foreign currency exchange rates may have an adverse impact on the valuation of our equity in foreign investments and loans denominated in currencies other than the U.S. dollar. We may not be able to successfully hedge the foreign currency exposure and may incur losses on these investments as a result of exchange rate fluctuations.

In addition, changes in foreign currency exchange rates used to value a REIT's foreign assets may be considered changes in the value of the REIT's assets. These changes may adversely affect our status as a REIT. Further, bank accounts in foreign currency which are not considered cash or cash equivalents may adversely affect our status as a REIT.

***Our operations in Europe and elsewhere expose our business to risks inherent in conducting business in foreign markets.***

A material portion of our revenues are sourced from our foreign operations in Europe and elsewhere or other foreign markets. Accordingly, our firm-wide results of operations depend in part on our foreign operations. Conducting business abroad carries significant risks, including:

- our REIT tax status not being respected under foreign laws, in which case any income or gains from foreign sources could be subject to foreign taxes and withholding taxes;
- changes in real estate and other tax rates, the tax treatment of transaction structures and other changes in operating expenses in a particular country where we have an investment;
- restrictions and limitations relating to the repatriation of profits;
- complexity and costs of staffing and managing international operations;
- the burden of complying with multiple and potentially conflicting laws;
- changes in relative interest rates;

- translation and transaction risks related to fluctuations in foreign currency and exchange rates;
- lack of uniform accounting standards (including availability of information in accordance with accounting principles generally accepted in the United States ("U.S. GAAP"));
- unexpected changes in regulatory requirements;
- the impact of different business cycles and economic instability;
- political instability and civil unrest;
- legal and logistical barriers to enforcing our contractual rights, including in perfecting our security interests, collecting accounts receivable, foreclosing on secured assets and protecting our interests as a creditor in bankruptcies in certain geographic regions;
- share ownership restrictions on foreign operations;
- compliance with U.S. laws affecting operations outside of the United States, including sanctions laws, or anti-bribery laws such as the Foreign Corrupt Practices Act ("FCPA"); and
- geographic, time zone, language and cultural differences between personnel in different areas of the world.

Each of these risks might adversely affect our performance and impair our ability to make distributions to our stockholders required to qualify and remain qualified as a REIT. In addition, there is generally less publicly available information about foreign companies and a lack of uniform financial accounting standards and practices (including the availability of information in accordance with GAAP) which could impair our ability to analyze transactions and receive timely and accurate financial information from our investments necessary to meet our reporting obligations to financial institutions or governmental or regulatory agencies.

Concerns persist regarding the debt burden of certain Eurozone countries and their ability to meet future financial obligations. These concerns could materially adversely affect the value of our euro-denominated assets and obligations.

In addition, the United Kingdom completed its withdrawal from the European Union effective as of January 1, 2021. The long-term consequences as a result of the United Kingdom's withdrawal from the European Union are still unknown and unpredictable. Uncertainty about global or regional economic conditions, and the regulation and availability of financial services, poses a risk as consumers and businesses may postpone spending in response to tighter credit, negative financial news, and declines in income or asset values, which could adversely affect the availability of financing, our business and our results of operations.

***Inflation in foreign countries, along with government measures to curb inflation, may have an adverse effect on our investments.***

Certain countries have in the past experienced extremely high rates of inflation. Inflation, along with governmental measures to curb inflation, coupled with public speculation about possible future governmental measures to be adopted, has had significant negative effects on these international economies in the past and this could occur again in the future. The introduction of governmental policies to curb inflation can have an adverse effect on our business. High inflation in the countries in which we purchase real estate or make other investments could increase our expenses and we may not be able to pass these increased costs on to our tenants.

## Risks Related to Our Financing Strategy

***Our indebtedness may subject us to increased risk of loss and could adversely affect our results of operations and financial condition.***

We use a variety of structures to finance the origination and acquisition of our investments, including our credit facilities, securitization financing transactions and other term borrowings, including repurchase agreements. Subject to market conditions and availability, we may incur a significant amount of debt through bank credit facilities (including term loans and revolving facilities), warehouse facilities and structured financing arrangements, public and private debt issuances and derivative instruments, in addition to transaction or asset-specific funding arrangements and additional repurchase agreements. We may also issue debt or equity securities to fund our growth. The type and percentage of leverage we employ will vary depending on our available capital, our ability to obtain and access financing arrangements with lenders, the type of asset we are funding, whether the financing is recourse or nonrecourse, debt restrictions contained in those financing arrangements and the lenders' and rating agencies' estimate of the stability of our investment portfolio's cash flow. We may significantly increase the amount of leverage we utilize at any time without approval of our Board of Directors. In addition, we may leverage individual assets at substantially higher levels. We may be unable to obtain necessary additional financing on favorable terms or, with respect to our investments, on terms that parallel the maturities of the debt originated or acquired, if we are able to obtain additional financing at all. If our strategy is not viable, we will have to find alternative forms of long-term financing for our assets, as secured revolving credit facilities and repurchase agreements may not accommodate long-term financing. Because repurchase agreements are short-term commitments of capital, lenders may respond to market conditions making it more difficult for us to renew or replace on a continuous basis our maturing short-term borrowings and have and may continue to impose more onerous conditions when rolling such financings. If we are not able to renew our existing facilities or arrange for new financing on terms acceptable to us, or if we default on our covenants or are otherwise unable to access funds under our financing facilities or if we are required to post more collateral or face larger haircuts, we may have to curtail our asset acquisition activities and/or dispose of assets. If we do obtain additional debt or financing, the substantial debt could subject us to many risks that, if realized, would materially and adversely affect us, including the risk that:

- our cash flow from operations may be insufficient to make required payments of principal of and interest on our debt or we may fail to comply with covenants contained in our debt agreements, which is likely to result in (1) acceleration of such debt (and any other debt containing a cross-default or cross-acceleration provision), which we then may be unable to repay from internal funds or to refinance on favorable terms, or at all, (2) our inability to borrow undrawn amounts under our financing arrangements, even if we are current in payments on borrowings under those arrangements, which would result in a decrease in our liquidity, and/or (3) the loss of some or all of our collateral assets to foreclosure or sale;
- our debt may increase our vulnerability to adverse economic and industry conditions with no assurance that investment yields will increase in an amount sufficient to offset the higher financing costs;
- we may be required to dedicate a substantial portion of our cash flow from operations to payments on our debt, thereby reducing funds available for operations, future business opportunities, stockholder distributions or other purposes;
- we may not be able to refinance any debt that matures prior to the maturity (or realization) of an underlying investment it was used to finance on favorable terms or at all; and
- we will have increased exposure to risks if the counterparties of our debt obligations are impacted by credit market turmoil or exposure to financial or other pressures.

There can be no assurance that a leveraging strategy will be successful and may subject us to increased risk of loss, harm our liquidity and could adversely affect our results of operations and financial condition.

***Our master repurchase agreements impose, and additional lending facilities may impose, restrictive covenants, which would restrict our flexibility to determine our operating policies and investment strategy and to conduct our business.***

We borrow funds under master repurchase agreements with various counterparties. The documents that govern these master repurchase agreements and the related guarantees contain, and additional lending facilities may contain, customary affirmative and negative covenants, including financial covenants applicable to us that may restrict our ability to further incur borrowings, restrict our distributions to stockholders prohibit us from discontinuing insurance coverage and restrict our flexibility to determine our operating policies and investment strategy. In particular, our master repurchase agreements require us to maintain a certain amount of cash or set aside assets sufficient to maintain a specified liquidity position that would allow us to satisfy our collateral obligations. As a result, we may not be able to leverage our assets as fully as we would otherwise choose, which could reduce our return on assets. If we fail to meet or satisfy any of these covenants, we would be in default under these agreements, and our lenders could elect to declare outstanding amounts due and payable, terminate their commitments, require the posting of additional collateral and enforce their interests against existing collateral. We may also be subject to cross-default and acceleration rights in our other debt facilities. Further, this could also make it difficult for us to satisfy the requirements necessary to maintain our qualification as a REIT for U.S. federal income tax purposes or to maintain our exclusion from registration under the Investment Company Act. In addition, in the event that the lender files for bankruptcy or becomes insolvent, our loans may become subject to bankruptcy or insolvency proceedings, thus depriving us, at least temporarily, of the benefit of these assets. Such an event could restrict our access to bank credit facilities and increase our cost of capital. Our master repurchase agreements also grant certain consent rights to the lenders thereunder, which give them the right to consent to certain modifications to the pledged collateral. This could limit our ability to manage a pledged investment in a way that we think would provide the best outcome for our stockholders.

These types of financing arrangements also involve the risk that the market value of the assets pledged or sold by us to the provider of the financing may decline in value, in which case the lender or counterparty may require us to provide additional collateral or lead to margin calls that may require us to repay all or a portion of the funds advanced. Typically, repurchase agreements grant the lender the absolute right to reevaluate the fair market value of the assets that cover outstanding borrowings at any time. These valuations may be different than the values that we ascribe to these assets and may be influenced by recent asset sales and distressed levels by forced sellers. In these circumstances, we may not have the funds available to repay our debt at that time, which would likely result in defaults unless we are able to raise the funds from alternative sources including by selling assets at a time when we might not otherwise choose to do so, which we may not be able to achieve on favorable terms or at all.

Posting additional collateral would reduce our cash available to make other, higher yielding investments (thereby decreasing our return on equity). If we cannot meet these requirements, the lender or counterparty could accelerate our indebtedness, increase the interest rate on advanced funds and terminate our ability to borrow funds from it, which could materially and adversely affect our financial condition and ability to implement our investment strategy. In the case of repurchase transactions, if the value of the underlying security has declined as of the end of that term, or if we default on our obligations under the repurchase agreement, we will likely incur a loss on our repurchase transactions.

During the first and second quarter of 2020, we observed a mark-down of a portion of our mortgage assets by the counterparties to our financing arrangements, resulting in us having to pay cash or securities to satisfy higher than historical levels of margin calls. Significant margin calls could have a material adverse effect on our results of operations, financial condition, business, liquidity and ability to make distributions to our stockholders, and could cause the value of our common stock to decline. In addition, we experienced an increase in haircuts on financings we have rolled. As haircuts are increased, we will be required to post additional collateral. We may also be forced to sell assets at significantly depressed prices to meet such margin calls and to maintain adequate liquidity. As a result of the ongoing COVID-19 pandemic, we experienced and may in the future experience margins calls well beyond historical norms. These trends, if continued, will have a negative adverse impact on our liquidity.

***Interest rate fluctuations could reduce our ability to generate income on our investments and may cause losses.***

Our financial performance is influenced by changes in interest rates, in particular, as such changes may affect our CRE securities, floating-rate borrowings and CRE debt to the extent such debt does not float as a result of floors or otherwise. Changes in interest rates affect our net interest income, which is the difference between the interest income we earn on our interest-earning investments and the interest expense we incur in financing these investments. Changes in the level of interest rates also may affect our ability to originate and acquire assets, the value of our assets and our ability to realize gains from the disposition of assets. Changes in interest rates may also affect borrower default rates. In a period of rising interest rates, our interest expense could increase, while the interest we earn on our fixed-rate debt investments would not change, adversely affecting our profitability. Our operating results depend in large part on differences between the income from our assets, net of credit losses, and our financing costs. We anticipate that for any period during which our assets are not match-funded (when we match maturities and interest rates of our liabilities with our assets to manage risks of being forced to refinance), the income from such assets will respond more slowly to interest rate fluctuations than the cost of our borrowings. We may fail to appropriately employ a match-funded structure on favorable terms or at all. Consequently, changes in interest rates particularly short term interest rates may significantly influence our net income. Interest rates are highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political conditions and other factors beyond our control. Interest rate fluctuations resulting in our interest expense exceeding interest income would result in operating losses for us.

***Hedging against interest rate and currency exposure may adversely affect our earnings, limit our gains or result in losses, which could adversely affect cash available for distribution to our stockholders.***

We may enter into swap, cap or floor agreements or pursue other interest rate or currency hedging strategies. Our hedging activity will vary in scope based on interest rate levels, currency exposure, the type of investments held and other changing market conditions. Interest rate and/or currency hedging may fail to protect or could adversely affect us because, among other things:

- interest rate and/or currency hedging can be expensive, particularly during periods of rising and volatile interest rates;
- available interest rate and/or currency hedging may not correspond directly with the interest rate risk for which protection is sought;
- the duration of the hedge may not match the duration of the related liability or asset;
- our hedging opportunities may be limited by the treatment of income from hedging transactions under the rules determining REIT qualification;
- the credit quality of the party owing money on the hedge may be downgraded to such an extent that it impairs our ability to sell or assign our side of the hedging transaction;
- the counterparties with which we trade may cease making markets and quoting prices in such instruments, which may render us unable to enter into an offsetting transaction with respect to an open position;
- the party owing money in the hedging transaction may default on its obligation to pay;

- we may purchase a hedge that turns out not to be necessary (i.e., a hedge that is out of the money); and
- we may enter into hedging arrangements that would require us to fund cash payments in certain circumstances (such as the early termination of the hedging instrument caused by an event of default or other early termination event, or the decision by a counterparty to request margin securities it is contractually owed under the terms of the hedging instrument).

Any hedging activity we engage in may adversely affect our earnings, which could adversely affect cash available for distribution to stockholders. Therefore, while we may enter into such transactions to seek to reduce interest rate and/or currency risks, unanticipated changes in interest rates or exchange rates may result in poorer overall investment performance than if we had not engaged in any such hedging transactions. In addition, the degree of correlation between price movements of the instruments used in a hedging strategy and price movements in the portfolio positions being hedged or liabilities being hedged may vary materially. Moreover, for a variety of reasons, we may not be able to establish a perfect correlation between hedging instruments and the investments being hedged. Any such imperfect correlation may prevent us from achieving the intended hedge and expose us to risk of loss. We may also be exposed to liquidity issues as a result of margin calls or settlement of derivative hedges. Our hedging activities, if not undertaken in compliance with certain U.S. federal income tax requirements, could also adversely affect our ability to qualify for taxation as a REIT. In addition, hedging instruments involve risk since they often are not traded on regulated exchanges, guaranteed by an exchange or its clearing house, or regulated by any U.S. or foreign governmental authorities. Consequently, there are no regulatory or statutory requirements with respect to record keeping, financial responsibility or segregation of customer funds and positions. Furthermore, the enforceability of agreements underlying derivative transactions may depend on compliance with applicable statutory, commodity and other regulatory requirements and, depending on the identity of the counterparty, applicable international requirements.

***We use short-term borrowings to finance our investments, and we may need to use such borrowings for extended periods of time to the extent we are unable to access long-term financing. This may expose us to increased risks associated with decreases in the fair value of the underlying collateral, which could have an adverse impact on our results of operations.***

While we have and may continue to seek non-recourse, non-mark-to-market, matched-term, long-term financing through securitization financing transactions or other structures, such financing may be unavailable to us on favorable terms or at all. Consequently, we may be dependent on short-term financing arrangements that are not matched in duration to our financial assets. Short-term borrowing through repurchase arrangements, credit facilities and other types of borrowings may put our assets and financial condition at risk. Repurchase agreements economically resemble short-term, floating rate financing and usually require the maintenance of specific loan-to-collateral value ratios. Posting additional collateral to support our financing arrangements could significantly reduce our liquidity and limit our ability to leverage our assets. Furthermore, the cost of borrowings may increase substantially if lenders view us as having increased credit risk during periods of market distress. Any such short-term financing may also be recourse to us, which will increase the risk of our investments.

In addition, the value of assets underlying any such short-term financing may be marked-to-market periodically by the lender, including on a daily basis. To the extent these financing arrangements contain mark-to-market provisions, if the market value of the investments pledged by us declines due to credit quality deterioration, we may be required by our lenders to provide additional collateral or pay down a portion of our borrowings. In a weakening economic environment, we would generally expect credit quality and the value of the investment that serves as collateral for our financing arrangements to decline, and in such a scenario, it is likely that the terms of our financing arrangements would require partial repayment from us, which could be substantial.

These facilities may also be restricted to financing certain types of assets, such as first mortgage loans, which could impact our asset allocation. In addition, such short-term borrowing facilities may limit the length of time that any given asset may be used as eligible collateral. As a result, we may not be able to leverage our assets as fully as we would choose, which could reduce our return on assets. Further, such borrowings may require us to maintain a certain amount of cash reserves or to set aside unleveraged assets sufficient to maintain a specified liquidity position that would allow us to satisfy our collateral obligations. In the event that we are unable to meet the collateral obligations for our short-term borrowings, our financial condition could deteriorate rapidly.

***We are subject to risks associated with obtaining mortgage financing on our real estate, which could materially adversely affect our business, financial condition and results of operations and our ability to make distributions to stockholders.***

As of December 31, 2021, our portfolio had $695 million of total mortgage financing. We are subject to risks normally associated with financing, including the risks that our cash flow is insufficient to make timely payments of interest or principal, that we may be unable to refinance existing borrowings or support collateral obligations and that the terms of refinancing may not be as favorable as the terms of existing borrowing. If we are unable to refinance or extend principal payments due at maturity or pay them with proceeds from other capital transactions or the sale of the underlying property, our cash flow may not be sufficient in all years to make distributions to stockholders and to repay all maturing borrowings. Furthermore, if prevailing interest rates or other factors at the time of refinancing result in higher interest rates upon refinancing, the interest expense relating to that refinanced borrowing would increase, which could reduce our profitability, result in losses and negatively impact the amount of distributions we are able to pay to stockholders. Moreover, additional financing increases the amount of our leverage, which could negatively affect our ability to obtain additional financing in the future or make us more vulnerable in a downturn in our results of operations or the economy generally.

***Any warehouse facilities that we may obtain in the future may limit our ability to acquire assets, and we may incur losses if the collateral is liquidated.***

In the event that securitization financings become available, we may utilize, if available, warehouse facilities pursuant to which we would accumulate mortgage loans in anticipation of a securitization financing, which assets would be pledged as collateral for such facilities until the securitization transaction is consummated. In order to borrow funds to acquire assets under any future warehouse facilities, we expect that our lenders thereunder would have the right to review the potential assets for which we are seeking financing. We may be unable to obtain the consent of a lender to acquire assets that we believe would be beneficial to us, and we may be unable to obtain alternate financing for such assets. In addition, no assurance can be given that a securitization structure would be consummated with respect to the assets being warehoused. If the securitization is not consummated, the lender could liquidate the warehoused collateral and we would then have to pay any amount by which the original purchase price of the collateral assets exceeds its sale price, subject to negotiated caps, if any, on our exposure. In addition, regardless of whether the securitization is consummated, if any of the warehoused collateral is sold before the consummation, we would have to bear any resulting loss on the sale. Currently, we have no warehouse facilities in place, and no assurance can be given that we will be able to obtain one or more.

**Risks Related to Regulatory Matters**

***The loss of our Investment Company Act exclusion could require us to register as an investment company or substantially change the way we conduct our business, either of which may have an adverse effect on us and the value of our common stock.***

On August 31, 2011, the SEC published a concept release (Release No. 29778, File No. S7-34-11, Companies Engaged in the Business of Acquiring Mortgages and Mortgage Related Instruments), pursuant to which it is reviewing whether certain companies that invest in MBSs and rely on the exclusion from registration under Section 3(c)(5)(C) of the Investment Company Act, such as us, should continue to be allowed to rely on such an exclusion from registration. If the SEC or its staff takes action with respect to this exclusion, these changes could mean that certain of our subsidiaries could no longer rely on the Section 3(c)(5)(C) exclusion, and would have to rely on Section 3(c)(1) or 3(c)(7), which would mean that our investment in those subsidiaries would be investment securities. This could result in our failure to maintain our exclusion from registration as an investment company. If we fail to maintain an exclusion from registration as an investment company, either because of SEC interpretational changes or otherwise, we could, among other things, be required either: (i) to substantially change the manner in which we conduct our operations to avoid being required to register as an investment company; or (ii) to register as an investment company, either of which could have an adverse effect on us and the value of our common stock. If we are required to register as an investment company under the Investment Company Act, we would become subject to substantial regulation with respect to our capital structure (including our ability to use leverage), management, operations, transactions with affiliated persons (as defined in the Investment Company Act), portfolio composition, including restrictions with respect to diversification and industry concentration and other matters.

***We, through our subsidiary, are subject to extensive regulation, including as an investment adviser in the United States, which could adversely affect our ability to manage our business.***

Our subsidiary, BrightSpire Advisors, LLC (“BrightSpire Advisors”) is subject to regulation as an investment adviser by various regulatory authorities. Instances of criminal activity and fraud by participants in the investment management industry and disclosures of trading and other abuses by participants in the financial services industry have led the U.S. government and regulators in foreign jurisdictions to consider increasing the rules and regulations governing, and oversight of, the financial system. This activity is expected to result in continued changes to the laws and regulations governing the investment management industry and more aggressive enforcement of the existing laws and regulations. BrightSpire Advisors could be subject to civil liability, criminal liability, or sanction, including revocation of its registration as an investment adviser in the United States, revocation of the licenses of its employees, censures, fines or temporary suspension or permanent bar from conducting business if it is found to have violated any of these laws or regulations. Any such liability or sanction could adversely affect our business.

## Risks Related to Taxation

***We may pay taxable dividends in our common stock and cash, in which case stockholders may sell shares of our common stock to pay tax on such dividends, placing downward pressure on the market price of our common stock.***

We generally must distribute annually at least 90% of our REIT taxable income (subject to certain adjustments and excluding any net capital gain), in order to qualify as a REIT, and any REIT taxable income that we do not distribute will be subject to U.S. corporate income tax at regular rates. In April 2020, the Board of Directors of the Company determined it was prudent to conserve available liquidity and suspend the Company's monthly stock dividend beginning with the monthly period ending April 30, 2020. The Board of Directors will evaluate dividends in future periods based upon customary consideration, such as our cash balances, and cash flows and market conditions and could consider paying future dividends in shares of common stock, cash, or a combination of shares of common stock and cash. Subsequent to December 31, 2020, the Board of Directors approved a $0.10 quarterly dividend for the first quarter of 2021, payable on April 15, 2021 to stockholders of record as of March 31, 2021. However, no assurance can be given that we will be able to make distributions to our stockholders at any time in the future or that the level of any distributions we do make to our stockholders will achieve a market yield or increase or even be maintained over time.

On August 11, 2017, the IRS issued Revenue Procedure 2017-45, authorizing elective stock dividends to be made by public REITs. Pursuant to this revenue procedure, effective for distributions declared on or after August 11, 2017, the IRS will treat the distribution of stock pursuant to an elective stock dividend as a distribution of property under Section 301 of the Code (i.e., as a dividend to the extent of our earnings and profits), as long as at least 20% of the total dividend is available in cash and certain other requirements outlined in the revenue procedure are met.

If we make a taxable dividend payable in cash and common stock, taxable stockholders receiving such dividends will be required to include the full amount of the dividend as ordinary income to the extent of our current and accumulated earnings and profits, as determined for U.S. federal income tax purposes. As a result, stockholders may be required to pay income tax with respect to such dividends in excess of the cash dividends received. If a U.S. stockholder sells the common stock that it receives as a dividend in order to pay this tax, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of our common stock at the time of the sale. Furthermore, with respect to certain non-U.S. stockholders, we may be required to withhold U.S. federal income tax with respect to such dividends, including in respect of all or a portion of such dividend that is payable in common stock. If we make a taxable dividend payable in cash and our common stock and a significant number of our stockholders determine to sell shares of our common stock in order to pay taxes owed on dividends, it may put downward pressure on the trading price of our common stock.

***Our qualification as a REIT involves complying with highly technical and complex provisions of the Code.***

We elected to be taxed as a REIT under the U.S. federal income tax laws commencing with our taxable year ended December 31, 2018. Our qualification as a REIT involves the application of highly technical and complex provisions of the Code for which only limited judicial and administrative authorities exist. Even a technical or inadvertent violation could jeopardize our REIT qualification. New legislation, court decisions or administrative guidance, in each case possibly with retroactive effect, may make it more difficult or impossible for us to qualify as a REIT.

Our qualification as a REIT depends on our satisfaction of certain asset, income, organizational, distribution, stockholder ownership and other requirements on a continuing basis:

- With respect to the gross income and asset tests, our compliance depends upon our analysis of the characterization and fair market values of our assets, some of which are not susceptible to a precise determination, and for which we will not obtain independent appraisals. Moreover, we invest in certain assets with respect to which the rules applicable to REITs are particularly difficult to interpret or to apply, including, but not limited to, the rules applicable to financing arrangements that are structured as sale and repurchase agreements; mezzanine loans; and investments in real estate mortgage loans that are acquired at a discount, subject to work-outs or modifications, or reasonably expected to be in default at the time of acquisition. If the IRS challenged our treatment of these assets as real estate assets for purposes of the REIT asset tests, and if such a challenge were sustained, we could fail to meet the asset tests applicable to REITs and thus fail to qualify as a REIT.
- The fact that we own direct or indirect interests in a number of entities that have elected to be taxed as REITs under the U.S. federal income tax laws (each, a "Subsidiary REIT"), further complicates the application of the REIT requirements for us. Each Subsidiary REIT is subject to the various REIT qualification requirements that are applicable to us. If a Subsidiary REIT were to fail to qualify as a REIT, then (i) that Subsidiary REIT would become subject to regular U.S. federal corporate income tax, (ii) our interest in such Subsidiary REIT would cease to be a qualifying asset for purposes of the REIT asset tests, and (iii) it is possible that we would fail certain of the REIT asset

tests, in which event we also would fail to qualify as a REIT unless we could avail ourselves of certain relief provisions.

- Our ability to satisfy the distribution and other requirements to qualify as a REIT depends in part on the actions of third parties over which we have no control or only limited influence, including in cases where we own limited partner or non-managing member interests in partnerships and limited liability companies that are joint ventures or funds.

If we were to fail to qualify as a REIT in any taxable year, we would be subject to U.S. federal income tax on our taxable income at regular corporate rates, and dividends paid to our stockholders would not be deductible by us in computing our taxable income. Any resulting corporate tax liability could be substantial and would reduce the amount of cash available for distribution to our stockholders, which in turn could have an adverse impact on the value of our common stock. In addition, we would no longer be required to make distributions to stockholders. Unless we were entitled to relief under certain Code provisions, we also would be disqualified from taxation as a REIT for the four taxable years following the year in which we failed to qualify as a REIT.

***We may incur adverse tax consequences if NorthStar I or NorthStar II were to have failed to qualify as a REIT for U.S. federal income tax purposes prior to the Mergers.***

In connection with the closing of the Mergers, we received an opinion of counsel to each of NorthStar I and NorthStar II to the effect that it qualified as a REIT for U.S. federal income tax purposes under the Code through the time of the Mergers. Neither NorthStar I nor NorthStar II, however, requested a ruling from the IRS that it qualified as a REIT. If, notwithstanding these opinions, NorthStar I's or NorthStar II's REIT status for periods prior to the Mergers were successfully challenged, we would face serious adverse tax consequences that would substantially reduce our core funds from operations, and cash available for distribution, including cash available to pay dividends to our stockholders, because:

- NorthStar I or NorthStar II, as applicable, would be subject to U.S. federal, state and local income tax on its net income at regular corporate rates for the years it did not qualify as a REIT (and, for such years, would not be allowed a deduction for dividends paid to stockholders in computing its taxable income) and we would succeed to the liability for such taxes;
- if we were considered to be a "successor" of such entity, we would not be eligible to elect REIT status until the fifth taxable year following the year during which such entity was disqualified, unless it were entitled to relief under applicable statutory provisions;
- even if we were eligible to elect REIT status, we would be subject to tax (at the highest corporate rate in effect at the date of the sale) on the built-in gain on each asset of NorthStar I or NorthStar II, as applicable, existing at the time of the Mergers if we were to dispose of such asset for up to five years following the Mergers; and
- we would succeed to any earnings and profits accumulated by NorthStar I or NorthStar II, as applicable, for tax periods that such entity did not qualify as a REIT and we would have to pay a special dividend and/or employ applicable deficiency dividend procedures (including interest payments to the IRS) to eliminate such earnings and profits to maintain our REIT qualification.

As a result of these factors, NorthStar I's or NorthStar II's failure to qualify as a REIT prior to the Mergers could impair our ability to expand our business and raise capital and could materially adversely affect the value of our common stock. In addition, even if they qualified as REITs for the entirety of their existence, if there is an adjustment to NorthStar I's or NorthStar II's taxable income or dividends-paid deductions for periods prior to the Mergers, we could be required to elect to use the deficiency dividend procedure to maintain NorthStar I's or NorthStar II's, as applicable, REIT status for periods prior to the Mergers. That deficiency dividend procedure could require us to make significant distributions to our stockholders and to pay significant interest to the IRS.

***Dividends payable by REITs do not qualify for the preferential tax rates available for some dividends.***

The maximum rate applicable to "qualified dividend income" paid by non-REIT "C" corporations to U.S. stockholders that are individuals, trusts and estates generally is 20%. Dividends payable by REITs to those U.S. stockholders, however, generally are not eligible for the current reduced rate, except to the extent that certain holding requirements have been met and a REIT's dividends are attributable to dividends received by a REIT from taxable corporations (such as a taxable REIT subsidiary ("TRS")), to income that was subject to tax at the REIT/corporate level, or to dividends properly designated by the REIT as "capital gains dividends." Effective for taxable years before January 1, 2026, those U.S. stockholders may deduct 20% of their dividends from REITs (excluding qualified dividend income and capital gains dividends). For those U.S. stockholders in the top marginal tax bracket of 37%, the deduction for REIT dividends yields an effective income tax rate of 29.6% on REIT dividends, which is higher than the 20% tax rate on qualified dividend income paid by non-REIT "C" corporations, but still lower than the effective rate that applied prior to 2018, which is the first year that this special deduction for REIT dividends is available. Although the reduced rates applicable to dividend income from non-REIT "C" corporations do not adversely affect the taxation of REITs or dividends payable by REITs, it could cause investors who are non-corporate taxpayers to perceive investments in REITs to be relatively less attractive than investments in the shares of non-REIT "C" corporations that pay dividends, which could adversely affect the value of our common stock.

***REIT distribution requirements could adversely affect our ability to execute our business plan.***

We generally must distribute annually at least 90% of our REIT taxable income (subject to certain adjustments and excluding any net capital gain), in order to qualify as a REIT, and any REIT taxable income that we do not distribute will be subject to U.S. corporate income tax at regular rates. In addition, from time to time, we may generate taxable income greater than our income for financial reporting purposes prepared in accordance with U.S. GAAP, or differences in timing between the recognition of taxable income and the actual receipt of cash may occur. For example,

- we may be required to accrue income from mortgage loans, MBSs, and other types of debt securities or interests in debt securities before we receive any payments of interest or principal on such assets;
- we may acquire distressed debt investments that are subsequently modified by agreement with the borrower, which could cause us to have to recognize gain in certain circumstances;
- we may recognize substantial amounts of "cancellation of debt" income for U.S. federal income tax purposes (but not for U.S. GAAP purposes) due to discount repurchases of our liabilities, which could cause our REIT taxable income to exceed our U.S. GAAP income;
- we or our TRSs may recognize taxable "phantom income" as a result of modifications, pursuant to agreements with borrowers, of debt instruments that we acquire if the amendments to the outstanding debt are "significant modifications" under the applicable Treasury regulations. In addition, our TRSs may be treated as a "dealer" for U.S. federal income tax purposes, in which case the TRS would be required to mark-to-market its assets at the end of each taxable year and recognize taxable gain or loss on those assets even though there has been no actual sale of those assets;
- we may deduct our capital losses only to the extent of our capital gains and not against our ordinary income, in computing our REIT taxable income for a given taxable year;
- certain of our assets and liabilities are marked-to-market for U.S. GAAP purposes but not for tax purposes, which could result in losses for U.S. GAAP purposes that are not recognized in computing our REIT taxable income; and
- under the Tax Cut and Jobs Act of 2017, we generally must accrue income for U.S. federal income tax purposes no later than when such income is taken into account as revenue in our financial statements, which could create additional differences between REIT taxable income and the receipt of cash attributable to such income.

As a result of both the requirement to distribute 90% of our REIT taxable income each year (and to pay tax on any income that we do not distribute) and the fact that our taxable income may well exceed our cash income due to the factors mentioned above as well as other factors, we may find it difficult to meet the REIT distribution requirements in certain circumstances while also having adequate cash resources to execute our business plan. In particular, where we experience differences in timing between the recognition of taxable income and the actual receipt of cash, the requirement to distribute a substantial portion of our taxable income could cause us to: (i) sell assets in adverse market conditions, (ii) borrow on unfavorable terms, (iii) distribute amounts that would otherwise be invested in future acquisitions, capital expenditures or repayment of debt or (iv) make a taxable distribution of our shares of common stock as part of a distribution in which stockholders may elect to receive shares of common stock or (subject to a limit measured as a percentage of the total distribution) cash, in order to comply with REIT requirements. These alternatives could increase our costs, reduce our equity, and/or result in stockholders being taxed on distributions of shares of stock without receiving cash sufficient to pay the resulting taxes. Thus, compliance with the REIT distribution requirements may hinder our ability to grow, which could adversely affect the value of our common stock.

***Even if we continue to qualify as a REIT, we may face other tax liabilities that reduce our cash available for distribution to stockholders.***

Even if we qualify for taxation as a REIT, we may be subject to certain U.S. federal, state and local taxes on our income and assets, including taxes on any undistributed income, tax on income from some activities conducted as a result of a foreclosure, and state or local income, property and transfer taxes, such as mortgage recording taxes. We also are subject to U.S. federal and state income tax (and any applicable non-U.S. taxes) on the net income earned by our TRSs. In addition, we have substantial operations and assets outside of the U.S. that are subject to tax in those countries. Those taxes, unless incurred by a TRS, are not likely to generate an offsetting credit for taxes in the U.S. In addition, if we have net income from "prohibited transactions," that income will be subject to a 100% tax. In general, "prohibited transactions" are sales or other dispositions of property, other than foreclosure property, but including mortgage loans, held primarily for sale to customers in the ordinary course of business.

We might be subject to this tax if we were to dispose of, modify or securitize loans in a manner that was treated as a sale or deemed exchange of the loans for U.S. federal income tax purposes that is subject to the prohibited transactions tax. In order to avoid the prohibited transactions tax, we may choose not to engage in certain sales or modifications of loans at the REIT-level, and may limit the structures we utilize for our securitization transactions, even though such sales or structures might otherwise be beneficial to us. Finally, we could, in certain circumstances, be required to pay an excise or penalty tax (which could be significant in amount) in order to utilize one or more relief provisions under the Code to maintain our qualification as a REIT. Any of these taxes would decrease cash available for distribution to our stockholders.

***Complying with REIT requirements may force us to forgo and/or liquidate otherwise attractive investment opportunities.***

To qualify as a REIT, we must ensure that we meet the REIT gross income tests annually and that at the end of each calendar quarter, at least 75% of the value of our assets consists of cash, cash items, government securities and qualified REIT real estate assets, including certain mortgage loans and certain kinds of MBS. The remainder of our investment in securities (other than qualified 75% asset test assets) generally cannot include more than 10% of the outstanding voting securities of any one issuer or more than 10% of the total value of the outstanding securities of any one issuer. In addition, in general, no more than 5% of the value of our assets (other than qualified 75% asset test assets) can consist of the securities of any one issuer, and no more than 20% of the value of our total assets can be represented by stock or securities of one or more TRSs. Debt instruments issued by "publicly offered REITs," to the extent not secured by real property or interests in real property, qualify for the 75% asset test but the value of such debt instruments cannot exceed 25% of the value of our total assets. The compliance with these limitations, particularly given the nature of some of our investments, may hinder our ability to make, and, in certain cases, maintain ownership of certain attractive investments that might not qualify for the 75% asset test. If we fail to comply with the REIT asset tests requirements at the end of any calendar quarter, we must correct the failure within 30 days after the end of the calendar quarter or qualify for certain statutory relief provisions to avoid losing our REIT qualification and suffering adverse tax consequences. As a result, we may be required to liquidate from our portfolio, or contribute to a TRS, otherwise attractive investments in order to maintain our qualification as a REIT. These actions could have the effect of reducing our income, increasing our income tax liability, and reducing amounts available for distribution to our stockholders. In addition, we may be required to make distributions to stockholders at disadvantageous times or when we do not have funds readily available for distribution, and may be unable to pursue investments (or, in some cases, forego the sale of such investments) that would be otherwise advantageous to us in order to satisfy the source-of-income or asset-diversification requirements for qualifying as a REIT.

***The "taxable mortgage pool" rules may increase the taxes that we or our stockholders may incur, and may limit the manner in which we effect future securitizations.***

Securitizations by us or our subsidiaries could result in the creation of taxable mortgage pools for U.S. federal income tax purposes. As a result, we could have "excess inclusion income." In general, dividend income that a tax-exempt entity receives from us should not constitute unrelated business taxable income ("UBTI"), as defined in Section 512 of the Code. If, however, we realize excess inclusion income and allocate it to stockholders, then this income would be fully taxable as UBTI to a tax-exempt entity under Section 512 of the Code. A foreign stockholder would generally be subject to U.S. federal income tax withholding on this excess inclusion income without reduction pursuant to any otherwise applicable income tax treaty. U.S. stockholders would not be able to offset such income with their net operating losses.

Although the law is not entirely clear, the IRS has taken the position that we are subject to tax at the highest corporate rate on the portion of our excess inclusion income equal to the percentage of our stock held in record name by "disqualified organizations" (generally tax-exempt investors, such as certain state pension plans and charitable remainder trusts, that are not subject to the tax on unrelated business taxable income). To the extent that our stock owned by "disqualified organizations" is held in street name by a broker-dealer or other nominee, the broker-dealer or nominee would be liable for a tax at the highest corporate rate on the portion of our excess inclusion income allocable to the stock held on behalf of the "disqualified organizations." A regulated investment company or other pass-through entity owning our stock may also be subject to tax at the highest corporate tax rate on any excess inclusion income allocated to their record name owners that are "disqualified organizations."

Excess inclusion income could result if a REIT held a residual interest in a real estate mortgage investment conduit ("REMIC"). In addition, excess inclusion income also may be generated if a REIT issues debt with two or more maturities and the terms of the payments of those debt instruments bear a relationship to the payments that the REIT received on mortgage loans or MBSs securing those liabilities. If any portion of our dividends is attributable to excess inclusion income, then the tax liability of tax-exempt stockholders, non-U.S. stockholders, stockholders with net operating losses, regulated investment companies and other pass-through entities whose record name owners are disqualified organizations and brokers-dealers and other nominees who hold stock on behalf of disqualified organizations will very likely increase.

***Complying with REIT requirements may limit our ability to hedge effectively and may cause us to incur tax liabilities.***

The REIT provisions of the Code limit our ability to hedge certain of our liabilities. Under these provisions, any income from a hedging transaction that we enter into to manage risk of interest rate changes with respect to borrowings made or to be made to acquire or carry real estate assets, or to manage the risk of certain currency fluctuations, and that is properly identified under applicable Treasury Regulations, does not constitute “gross income” for purposes of the 75% or 95% gross income tests. To the extent that we enter into other types of hedging transactions, the income from those transactions is likely to be treated as non-qualifying income for purposes of the REIT gross income tests. As a result of these rules, we intend to limit our use of advantageous hedging techniques that do not qualify for the exclusion from the REIT gross income tests or implement those hedges through a TRS. This could increase the cost of our hedging activities because our TRS would be subject to tax on gains or expose us to greater risks associated with changes in interest rates than we would otherwise want to bear. In addition, losses in our TRS will generally not provide any tax benefit, except for being carried forward against future taxable income in the TRS.

***There is a risk of changes in the tax law applicable to REITs.***

The IRS, the United States Treasury Department and Congress frequently review U.S. federal income tax legislation, regulations and other guidance. We cannot predict whether, when or to what extent new U.S. federal tax laws, regulations, interpretations or rulings will be adopted. Any legislative action may prospectively or retroactively modify our tax treatment and, therefore, may adversely affect our taxation or our stockholders. We urge you to consult with your tax advisor with respect to the status of legislative, regulatory or administrative developments and proposals and their potential effect on an investment in our shares. Although REITs generally receive certain tax advantages compared to entities taxed as C corporations, it is possible that future legislation would result in a REIT having fewer tax advantages, and it could become more advantageous for a company that invests in real estate to elect to be treated for U.S. federal income tax purposes as a C corporation.

***Our ownership of assets and conduct of operations through our TRSs is limited and involves certain risks for us.***

We use our TRSs to hold assets and earn income that would not be qualifying assets or income if held or earned directly by us. Apart from the fact that income from those TRSs may be subject to U.S. federal, foreign, state and local income tax on their taxable income and only their after-tax net income is available for distribution to us, our use of the TRS for this purpose is subject to certain costs, risks and limitations:

- No more than 20% of the value of our gross assets may consist of stock or securities of one or more TRSs.
- The TRS rules limit the deductibility of interest paid or accrued by a TRS to its parent REIT to assure that the TRS is subject to an appropriate level of corporate taxation. The rules also impose a 100% excise tax on certain transactions between a TRS and its parent REIT that are not conducted on an arm’s-length basis.
- We treat income that we earn from certain foreign TRSs, including issuers in CDO transactions, as qualifying dividend income for purposes of the REIT income tests, based on several private letter rulings that the IRS has issued to other taxpayers (which technically may be relied upon only by those taxpayers), but there can be no assurance that the IRS might not successfully challenge our treatment of such income as qualifying income, in which event we might not satisfy the REIT 95% gross income test, and we either could be subject to a penalty tax with respect to some or all of that income we could fail to continue to qualify as a REIT.
- We generally structure our foreign TRSs with the intent that their income and operations will not be subject to U.S. federal, state and local income tax. If the IRS successfully challenged that tax treatment, it would reduce the amount that those foreign TRSs would have available to pay to their creditors and to distribute to us.

We are mindful of all of these limitations and analyze and structure the income and operations of our TRSs to mitigate these costs and risks to us to the extent practicable, but we may not always be successful in all cases.

## General Risk Factors

***Stockholders have limited control over changes in our policies and operations, which increases the uncertainty and risks they face as stockholders.***

Our Board of Directors determines our major policies, including our policies regarding growth, REIT qualification and distributions. Our Board of Directors may amend or revise these and other policies without a vote of the stockholders. We may change our investment policies without stockholder notice or consent, which could result in investments that are riskier or different than our current investments. Our Board of Directors’ broad discretion in setting policies and stockholders’ inability to exert control over those policies increases the uncertainty and risks stockholders face.

***If we are unable to implement and maintain effective internal controls over financial reporting in the future, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock could be negatively affected.***

As a public company, we are required to maintain internal controls over financial reporting and to report any material weaknesses in such internal controls. The process of designing, implementing and testing the internal controls over financial reporting required to comply with this obligation is time consuming, costly and complicated. If we identify material weaknesses in our internal controls over financial reporting, if we are unable to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner or to assert that our internal controls over financial reporting is effective, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal controls over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports, and the market price of our common stock could be negatively affected. We could also become subject to investigations by the stock exchange on which our securities are listed, the SEC or other regulatory authorities, which could require additional financial and management resources.

***New accounting standards may result in a significant change to our recognition of credit losses.***

In June 2016, the Financial Accounting Standards Board issued Accounting Standards Update No. 2016-13, Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments. The standard replaced the incurred loss impairment methodology pursuant to GAAP with a methodology that reflects current expected credit losses (“CECL”) and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. Under the CECL model, which became effective for us for fiscal years beginning after December 15, 2019 and for interim periods within those fiscal years, we are required to present certain financial assets carried at amortized cost, such as loans held for investment, at the net amount expected to be collected. The measurement of expected credit losses is based on information about past events, including historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount. This measurement takes place at the time the financial asset is first added to the balance sheet and updated quarterly thereafter. This differs from the incurred loss impairment methodology pursuant to GAAP, which delays recognition until it is probable a loss has been incurred. Accordingly, the CECL model may affect how we determine our allowance for loan losses and could require us to increase our allowance and recognize provisions for loan losses earlier in the lending cycle. Moreover, the CECL model may create more volatility in the level of our allowance for loan losses. If we are required to increase our level of allowance for loan losses for any reason, such increase may affect our business, financial condition and results of operations.

***Environmental compliance costs and other potential environmental liabilities associated with our current or former properties or our CRE debt or real estate-related investments could materially impair the value of our investments and expose us to material liability.***

Under various federal, state and local environmental laws, statutes, ordinances and regulations relating to the protection of the environment, a current or previous owner or operator of real property, such as us, our borrowers and our tenants, may be liable in certain circumstances for the costs of investigation, removal or remediation of contamination, or related to hazardous or toxic substances, materials or wastes, including petroleum and materials containing asbestos or, mold, present or released at, under, on, or from such property. In addition, we also may be liable for costs of remediating contamination at off-site disposal or treatment facilities where we arranged for disposal or treatment of hazardous substances at such facilities. Potential liabilities relating to the forgoing also include government fines and penalties, natural resource damages, and damages for injuries to persons and property. In addition, some environmental laws can create a lien on the contaminated site in favor of the government for damages and the costs it incurs in connection with the contamination. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the presence, release or disposal of such substances, may be joint and several, and may be imposed on the current or former owner or operator of a property in connection with the activities of a tenant or a prior owner or operator at the property. The presence of contamination or the failure to remediate contamination may adversely affect our or our tenants’ ability to sell, develop, operate or lease real estate, or to borrow using the real estate as collateral, which, in turn, could reduce our revenues. As an owner or operator of a site, including if we take ownership through foreclosure, we also can be liable under common law to third parties for damages and injuries resulting from environmental contamination at or emanating from the site (e.g., for cleanup costs, natural resource damages, bodily injury or property damage). Some of our properties are or have been used for commercial or industrial purposes involving the use or presence of hazardous substances, materials or waste, which could have resulted in environmental impacts at or from these properties, including contamination of which we are not presently aware.

We are also subject to federal, state and local environmental, health and safety laws and regulations and zoning requirements, including those regarding the handling of regulated substances and wastes, emissions to the environment and fire codes. If we, or our tenants or borrowers, fail to comply with these various laws and requirements, we might incur costs and liabilities, including governmental fines and penalties. Moreover, we do not know whether existing laws and requirements will change or, if they do, whether future laws and requirements will require us to make significant unanticipated expenditures that could have a material adverse effect on our business. Our tenants are subject to the same environmental, health and safety and zoning laws and also may be liable for cleanup or remediation of contamination. Such liability could affect a tenant's ability to make rental payments to us.

Some of our properties may contain, or may have contained, asbestos-containing building materials. Environmental, health and safety laws require that owners or operators of or employers in buildings with ACM properly manage and maintain these materials, adequately inform or train those who may come into contact with ACM and undertake special precautions, including removal or other abatement, in the event that ACM is disturbed during building maintenance, renovation or demolition. These laws may impose fines and penalties on employers or, building owners or operators for failure to comply with these requirements. In addition, third parties may seek recovery from employers, owners or operators for personal injury associated with exposure to asbestos.

When excessive moisture accumulates in buildings or on building materials, mold growth may occur, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Some molds may produce airborne toxins or irritants. Indoor air quality issues also can stem from inadequate ventilation, chemical contamination from indoor or outdoor sources and other biological contaminants such as pollen, viruses and bacteria. Indoor exposure to airborne toxins or irritants above certain levels can be alleged to cause a variety of adverse health effects and symptoms, including allergic or other reactions. As a result, the presence of significant mold or other airborne contaminants at any of our properties could require us to undertake a remediation program to contain or remove the mold or other airborne contaminants from the affected property or increase indoor ventilation. In addition, the presence of significant mold or other airborne contaminants could expose us to liability from our tenants and others if property damage or personal injury occurs.

These costs and liabilities, including for any required investigation, remediation, removal, fines, penalties, costs to comply with environmental law or personal or property injury or damages and our or our tenants' or borrowers' liability could significantly exceed the value of the property without any limits.

The scope of any indemnification our tenants or borrowers have agreed to provide us for environmental liabilities may be limited. For instance, some of our agreements with our tenants or borrowers do not require them to indemnify us for environmental liabilities arising before such tenant or borrower took possession of the premises. Further, we cannot assure stockholders that any such tenant or borrower would be able to fulfill its indemnification obligations. If we were deemed liable for any such environmental liabilities and were unable to seek recovery against our tenant or borrower, our business, financial condition and results of operations could be materially and adversely affected.

Furthermore, we may invest in real estate, or CRE debt secured by real estate or subordinate interests, with environmental impacts or issues that materially impair the value of the real estate. Even as a lender, if we participate in management or take title to collateral with environmental problems or if other circumstances arise, we could be subject to environmental liability. There are substantial risks associated with such an investment.

***Laws, regulations or other issues related to climate change could have a material adverse effect on us.***

If we, our borrowers or other companies with which we do business, particularly utilities that provide our facilities with electricity, become subject to laws or regulations related to climate change, it could have a material adverse effect on us. The United States may enact new laws, regulations and interpretations relating to climate change, including potential cap-and-trade systems, carbon taxes and other requirements relating to reduction of carbon footprints and/or greenhouse gas emissions. Other countries have enacted climate change laws and regulations, and the United States has been involved in discussions and agreements regarding international climate change treaties. The federal government and some of the states and localities in which we operate have enacted certain climate change laws and regulations and/or have begun regulating carbon footprints and greenhouse gas emissions. Localities may enact laws that require mortgaged properties to comply with certain green building certification programs (e.g., LEED and EnergyStar) and other laws which may impact commercial real estate as a result of efforts to mitigate the factors contributing to climate change. Although these laws and regulations have not had any known material adverse effect on us to date, they could limit our ability to develop properties or result in substantial costs, including compliance costs, retrofit costs and construction costs, monitoring and reporting costs and capital expenditures for environmental control facilities and other new equipment. In addition, these laws and regulations could lead to increased costs for the electricity that our tenant's require to conduct operations. Furthermore, our reputation could be damaged if we violate climate change laws or regulations. We cannot predict how future laws and regulations, or future interpretations of current laws and regulations, related to climate change will affect our business, results of operations, liquidity and financial condition. Lastly, the potential physical impacts of climate change on our operations are highly uncertain, and would be particular to the geographic circumstances in areas in which we operate. These potential impacts may include changes in rainfall and storm patterns and intensities, water shortages, changing sea levels and changing temperatures, any of which could increase our operating costs. Any of these matters could have a material adverse effect on us.

***The phase-out, replacement, or unavailability of LIBOR is likely to affect our existing floating rate debt and hedging arrangements, and there can be no assurance as to which replacement rate will be used when LIBOR is discontinued, and any such replacement rate may differ from LIBOR and between the loan and hedge markets.***

Certain of our floating-rate debt and hedging arrangements determine the applicable interest rate or payment amount by reference to LIBOR, or to another financial metric.

On March 5, 2021, the U.K. Financial Conduct Authority ("FCA") announced staggered dates by which LIBOR settings will either cease to be provided by any administrator or no longer be representative. Accordingly, unless our floating rate debt and hedge arrangements are modified to provide for a specific replacement benchmark by June 30, 2023, it is unclear what rate would apply to such floating rate debt and hedges.

The U.S. Federal Reserve, in conjunction with the Alternative Reference Rates Committee, a steering committee composed of large U.S. financial institutions, has identified the Secured Overnight Financing Rate ("SOFR") as the preferred alternative rate to LIBOR. The composition and characteristics of SOFR are not the same as those of LIBOR. SOFR is a secured rate backed by government securities, while LIBOR is an unsecured rate that incorporates bank credit risk, and SOFR is an overnight rate, while LIBOR is a forward-looking rate that represents interbank funding over different maturities. While market participants have proposed certain methods to interpolate and transition between LIBOR and SOFR, there can be no assurance that SOFR (including a term SOFR or compounded SOFR) will perform in the same way as LIBOR would have at any time, including, without limitation, as a result of changes in interest and yield rates in the market, market volatility or global or regional economic, financial, political, regulatory, judicial or other events. The discontinuation of USD LIBOR and the transition to SOFR or another alternative reference rate may be disruptive to financial markets, which could have a material adverse effect on our financing costs, and as a result, on our financial condition, operating results, and cash flows.

Furthermore, differences between LIBOR replacement methodology in loan and hedging markets could result in differences in conversion between our debt arrangements and corresponding hedges. While the loan market may eventually generally adopt the same replacement for LIBOR as the hedging market, there can be no assurance as to the timing of such adoption and any differences in the timing of adoption of LIBOR replacements between the loan and hedge market as well as differences in methodology and valuation can lead to mismatches in hedging, which could result in changes to our risk exposure, adverse tax or accounting effects, increased compliance and legal and operational costs.

In addition, any such discontinuation or changes, whether actual or anticipated, could result in market volatility, adverse tax or accounting effects, increased compliance, legal and operational costs, and risks associated with contract negotiations.

***Changes in laws or regulations governing our operations, changes in the interpretation thereof or newly enacted laws or regulations and any failure by us to comply with these laws or regulations, could require changes to certain of our business practices, negatively impact our operations, cash flow or financial condition, impose additional costs on us, subject us to increased competition or otherwise adversely affect our business.***

The laws and regulations governing our operations, as well as their interpretation, may change from time to time, and new laws and regulations may be enacted. For example, from time to time the market for real estate debt transactions has been adversely affected by a decrease in the availability of senior and subordinated financing for transactions, in part in response to regulatory pressures on providers of financing to reduce or eliminate their exposure to such transactions. Furthermore, if regulatory capital requirements—whether under the Dodd-Frank Act, Basel III (voluntary minimum requirements for internationally active banks) or other regulatory action—are imposed on private lenders that provide us with funds, or were to be imposed on us, they or we may be required to limit, or increase the cost of, financing they provide to us or that we provide to others. Among other things, this could potentially increase our financing costs, reduce our ability to originate or acquire loans and reduce our liquidity or require us to sell assets at an inopportune time or price.

There has been increasing commentary amongst regulators and intergovernmental institutions on the role of nonbank institutions in providing credit and, particularly, so-called "shadow banking," a term generally referring to credit intermediation involving entities and activities outside the regulated banking system and increased oversight and regulation of such entities. In the United States, the Dodd-Frank Act established the Financial Stability Oversight Council (the "FSOC"), which is comprised of representatives of all the major U.S. financial regulators, to act as the financial system's systemic risk regulator. The FSOC has the authority to review the activities of non-bank financial companies predominantly engaged in financial activities and designate those companies as "systemically important" for supervision by the Federal Reserve. Although the FSOC has raised the "systemically important financial institution" asset threshold to $250 billion in total consolidated assets, compliance with any increased regulation of non-bank credit extension could require changes to certain of our business practices, negatively impact our operations, cash flows or financial condition or impose additional costs on us.

***The market price of our common stock may fluctuate significantly.***

The capital and credit markets have from time to time experienced periods of extreme volatility and disruption. The market price and liquidity of the market for shares of our common stock may be significantly affected by numerous factors, some of which are beyond our control and may not be directly related to our operating performance.

Some of the factors that could negatively affect the market price of our common stock include:

- our actual or projected operating results, financial condition, cash flows and liquidity, or changes in business strategy or prospects;
- equity issuances by us, or resales of our shares by our stockholders, or the perception that such issuances or resales may occur;
- loss of a major funding source;
- actual or anticipated accounting problems;
- publication of research reports about us or the real estate industry;
- changes in market valuations of similar companies;
- adverse market reaction to the level of leverage we employ;
- additions to or departures of our key personnel or adverse effects on the business or operations of DigitalBridge;
- speculation in the press or investment community;
- our failure to meet, or the lowering of, our earnings estimates or those of any securities analysts;
- increases in market interest rates, which may lead investors to demand a higher distribution yield for our common stock and would result in increased interest expenses on our debt;
- a compression of the yield on our investments and an increase in the cost of our liabilities;
- failure to operate in a manner consistent with our intention to qualify as a REIT or exclusion from registration under the Investment Company Act;
- price and volume fluctuations in the overall stock market from time to time;
- general market and economic conditions and trends including inflationary concerns, and the current state of the credit and capital markets;
- significant volatility in the market price and trading volume of securities of publicly traded REITs or other companies in our sector, which is not necessarily related to the operating performance of these companies;
- changes in law, regulatory policies or tax guidelines, or interpretations thereof, particularly with respect to REITs;
- changes in the value of our portfolio;
- any shortfall in revenue or net income or any increase in losses from levels expected by investors or securities analysts;
- operating performance of companies comparable to us;
- short-selling pressure with respect to shares of our common stock or REITs generally; and
- uncertainty surrounding the strength of the U.S. economic recovery, particularly in light of the recent debt ceiling and budget deficit concerns, and other U.S. and international political and economic affairs.

Any of the foregoing factors could negatively affect our stock price or result in fluctuations in the price or trading volume of our common stock.

***Future offerings of debt or equity securities, which would rank senior to our common stock, may adversely affect the market price of our common stock.***

If we decide to issue debt or equity securities in the future, which would rank senior to our common stock, it is likely that they will be governed by an indenture or other instrument containing covenants restricting our operating flexibility. Additionally, any convertible or exchangeable securities that we issue in the future may have rights, preferences and privileges more favorable than those of our common stock and may result in dilution to owners of our common stock. We and, indirectly, our stockholders, will bear the cost of issuing and servicing such securities. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus holders of our common stock will bear the risk of our future offerings reducing the market price of our common stock and diluting the value of their stock holdings in us.

***We may issue additional equity securities, which may dilute your interest in us.***

Stockholders do not have preemptive rights to any shares we issue in the future. Our charter authorizes us to issue a total of 1,000,000,000 shares of capital stock, of which 950,000,000 shares are classified as common stock and 50,000,000 shares are classified as preferred stock. Our Board of Directors, with the approval of a majority of our entire Board of Directors and without stockholder approval, may amend our charter to increase or decrease the aggregate number of authorized shares of capital stock or the number of shares of capital stock of any class or series that we are authorized to issue. Our Board of Directors may elect to: (i) sell additional shares in one or more future public offerings; (ii) issue equity interests in private offerings; (iii) issue shares of our common stock to sellers of assets we acquire in connection with an exchange of limited partnership interests of our operating company; or (iv) issue shares of our common stock to pay distributions to existing stockholders. If we issue and sell additional shares of our common stock, the ownership interests of our existing stockholders will be diluted to the extent they do not participate in the offering.

**Item 1B. Unresolved Staff Comments**

None.

**Item 2. Properties**

Information regarding our investment properties at December 31, 2021 are included in “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations —Net Leased and Other Real Estate” and “Item 15. Exhibits and Financial Statement Schedules—Schedule III. Real Estate and Accumulated Depreciation” of this Annual Report.

**Item 3. Legal Proceedings**

The Company is not currently subject to any material legal proceedings. We anticipate that we may from time to time be involved in legal actions arising in the ordinary course of business, the outcome of which we would not expect to have a material adverse effect on our financial position, results of operations or cash flow.

**Item 4. Mine Safety Disclosures**

Not applicable.

## PART II—Other Information

### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

**Market Information**

Our Class A common stock began trading on the NYSE on February 1, 2018 under the symbol "CLNC." Prior to February 1, 2018, our Class A common stock was not listed on a national securities exchange and there was no established public trading market for such shares. On June 24, 2021, we changed our ticker symbol to BRSP concurrent with our name change to BrightSpire Capital, Inc. from Colony Credit Real Estate, Inc., and continue to trade on the NYSE.

As of February 18, 2022, the closing price of our Class A common stock was $8.99 and we had approximately 129.8 million shares of Class A common stock outstanding held by a total of 3,362 holders of record. This figure does not reflect the beneficial ownership of shares held in nominee name.

**Distributions**

Holders of our common stock are entitled to receive distributions if and when the Board of Directors authorizes and declares a distribution. The Board of Directors has not established any minimum distribution level. In order to maintain our qualification as a REIT, we intend to pay dividends to our stockholders that, on an annual basis, will represent at least 90% of our taxable income (which may not necessarily equal net income as calculated in accordance with U.S. GAAP), determined without regard to the deduction for dividends paid and excluding net capital gains.

Dividends paid to stockholders, for income tax purposes, represent distributions of ordinary income, capital gains, return of capital or a combination thereof. The following table presents the income tax treatment of dividends per share of common and preferred stock.

| | Common Stock |
|---|---|
| **2021** | |
| Ordinary income | $ 0.29 |
| Return of capital | 0.11 |
| Total | $ 0.40 |
| **2020** | |
| Ordinary income | $ 0.30 |
| Return of capital | 0.10 |
| Total | $ 0.40 |
| **2019** | |
| Ordinary income | $ 1.11 |
| Capital gains | 0.21 |
| Return of capital | 0.38 |
| Total | $ 1.70 |

For the year ended December 31, 2021, we paid aggregate dividends of $53.1 million to our Class A common stockholders. The Board of Directors will evaluate dividends in future periods based upon customary considerations, including market conditions.

The credit agreement governing our revolving credit facility limits our ability to make dividends and other payments with respect to our shares of common stock. The credit agreement limits dividends to an amount required to maintain REIT status or to avoid income tax and restricts stock repurchases, each for liquidity preservation purposes. The credit agreement also generally provides that if a default occurs and is continuing, we will be precluded from making distributions on our common stock (other than those required to allow the Company to qualify and maintain its status as a REIT, so long as such default does not arise from a payment default or event of insolvency).

**Unregistered Sales of Equity Securities and Use of Proceeds**

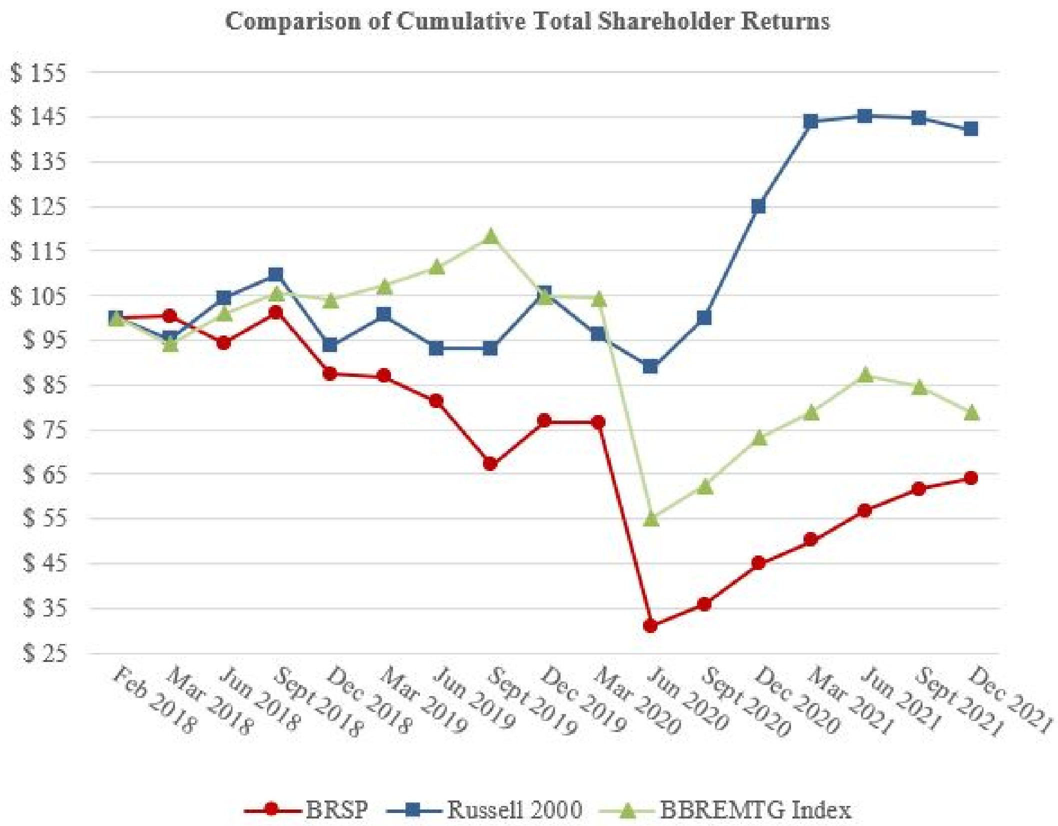
There were no sales of unregistered securities of our Company during the year ended December 31, 2021, other than those previously disclosed in filings with the SEC.

**Purchases of Equity Securities by Issuer**

The Company did not purchase any of its Class A common stock during the year ended December 31, 2021.

**Stock Performance Graph**

The following graph compares the cumulative total return on our class A common stock with the cumulative total returns on the Russell 2000 Index (the "Russell 2000") and the Bloomberg REIT Mortgage Index (the "BBREMTG Index"), a published industry index from February 1, 2018 to December 31, 2021. The cumulative total return on our class A common stock as presented is not necessarily indicative of future performance of our class A common stock.




**Item 6. Reserved.**

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

*You should read the following discussion of our results of operations and financial condition in conjunction with our financial statements and related notes, "Risk Factors" and "Business" included elsewhere in this Annual Report on Form 10-K. This discussion contains forward-looking statements that involve risks and uncertainties. The forward-looking statements are not historical facts, but rather are based on current expectations, estimates, assumptions and projections about our industry, business and future financial results. Our actual results could differ materially from the results contemplated by these forward-looking statements due to a number of factors, including those discussed in the sections of this Annual Report on Form 10-K entitled "Risk Factors" and "Forward-Looking Statements."*

### Introduction

We are a commercial real estate ("CRE") credit real estate investment trust ("REIT") focused on originating, acquiring, financing and managing a diversified portfolio consisting primarily of CRE debt investments and net leased properties predominantly in the United States. CRE debt investments primarily consist of first mortgage loans, which we expect to be our primary investment strategy. Additionally, we may also selectively originate mezzanine loans and preferred equity investments, which may include profit participations. The mezzanine loans and preferred equity investments may be in conjunction with our origination of corresponding first mortgages on the same properties. Net leased properties consist of CRE properties with long-term leases to tenants on a net-lease basis, where such tenants generally will be responsible for property operating expenses such as insurance, utilities, maintenance capital expenditures and real estate taxes. We will continue to target net leased equity investments on a selective basis. Additionally, we previously made investments in CRE debt securities primarily consisting of commercial mortgage-backed securities ("CMBS") (including "B-pieces" of a CMBS securitization pool) or CRE collateralized loan obligations ("CLOs") (including the junior tranches collateralized by pools of CRE debt investments). We have continued to reduce our CMBS holdings since the second quarter of 2020, and sold our last CMBS security available for sale in the fourth quarter of 2021. As of December 31, 2021 we hold only "B-pieces" of a CMBS securitization pool which are subject to risk retention provisions through June 2022.

*The Internalization*

On April 30, 2021, we completed the internalization of the Company's management and operating functions and terminated our relationship with CLNC Manager, LLC (the "Manager"), a subsidiary of DigitalBridge Group, Inc. ("DigitalBridge"), formerly known as Colony Capital, Inc., in accordance with that termination agreement dated April 4, 2021 between the Company, the OP, the Manager and Colony Capital Investment Advisors, LLC (the "Termination Agreement," and the transactions contemplated thereunder, the "Internalization"). We paid the Manager a one-time termination fee of $102.3 million. Therefore, we no longer pay management or incentive fees to the Manager for any post-closing period and we have assumed general and administrative expenses directly. We have achieved a savings in operating costs as a result of the Internalization. Further, in connection with the Internalization, certain affiliates of ours and the Manager entered into a transition services agreement ("TSA") to facilitate an orderly internalization transition of the management of our operations. The TSA expired on September 30, 2021, at which time we fully transitioned the management of our operations.

Our executive team remains unchanged, including Michael J. Mazzei, Chief Executive Officer; Andrew E. Witt, President and Chief Operating Officer; Frank V. Saracino, Chief Financial Officer and Executive Vice President; David A. Palamé, General Counsel, Secretary and Executive Vice President; George Kok, Chief Credit Officer; and Daniel Katz, Head of Originations. As a result of the Company's 2021 Annual Meeting of Stockholders, DigitalBridge no longer has affiliated representatives on our board of directors. The Company's board of directors is comprised of seven members, including our six independent directors, led by Catherine D. Rice, our Independent Chairperson, Vernon Schwartz, John Westerfield, Winston W. Wilson, Kim S. Diamond, Catherine F. Long and Michael J. Mazzei, the Company's Chief Executive Officer. Ms. Diamond and Ms. Long were appointed to the board of directors during 2021. Additionally, certain professionals that have contributed substantially to our investment, underwriting, portfolio and asset management, loan servicing, financial reporting, treasury, legal, tax, credit, risk and compliance responsibilities seamlessly moved forward as direct employees of the Company.

Our senior management team has extensive experience managing and investing in real estate-related investments through a variety of credit cycles and market conditions. The clarity in organizational structure and dedicated management and employee base achieved through the Internalization solidifies the footprint and corresponding network developed by our investment and asset management teams, with proprietary market knowledge, sourcing capabilities and the local presence required to identify, execute and manage new originations and existing investments on behalf of the Company. Our real estate investment platform and relationships allow us to source, underwrite, structure and manage investment opportunities as well as to access debt and equity capital to fund our operations. We have fully integrated investment and portfolio management, finance and administration functions, including legal, compliance, human resources, investor relations, asset valuation, credit and risk management and information technology services. The Company has a captive, fully functional, asset management company that engages primarily in loan servicing for performing, sub-performing and non-performing commercial loans, including senior secured loans, revolving lines of credit, loan participations, subordinated loans, unsecured loans and mezzanine debt. Our asset management subsidiary is a commercial special servicer rated by both Standard & Poor's and Fitch's rating services.

On June 24, 2021, BrightSpire Capital, Inc. changed its name from Colony Credit Real Estate, Inc. We also changed our principal place of business and corporate headquarters from Los Angeles to New York City, now located at 590 Madison Avenue, 33rd Floor, New York, NY 10022. We continue to be publicly traded on the New York Stock Exchange. However, concurrent with our name change, we changed our ticker symbol to BRSP.

*Our Business Segments*

During the first quarter of 2021, we realigned the business and reportable segment information to reflect how the Chief Operating Decision Makers ("CODM") regularly review and manage the business. As a result, we present our business as one portfolio and the following business segments:

- Senior and Mezzanine Loans and Preferred Equity—CRE debt investments including senior mortgage loans, mezzanine loans, and preferred equity interests as well as participations in such loans. The segment also includes acquisition, development and construction ("ADC") arrangements accounted for as equity method investments.

- Net Leased and Other Real Estate—direct investments in commercial real estate with long-term leases to tenants on a net lease basis, where such tenants generally will be responsible for property operating expenses such as insurance, utilities, maintenance, capital expenditures and real estate taxes. It also includes other real estate, currently consisting of three investments with direct ownership in commercial real estate, with an emphasis on properties with stable cash flow.

- CRE Debt Securities— securities investments currently consisting of BBB and some BB rated CMBS (including Non-Investment Grade "B-pieces" of a CMBS securitization pool) or CRE CLOs (including the junior tranches thereof, collateralized by pools of CRE debt investments). It also includes two sub-portfolios of private equity funds.

- Corporate—includes corporate-level asset management and other fees including expenses related to our secured revolving credit facility (the "Bank Credit Facility"), related party and general and administrative expenses.

There were no changes in the structure of our internal organization that prompted the change in reportable segments. Prior year amounts have been revised to conform to the current year presentation. Accordingly, we realigned the discussion and analysis of our portfolio and results of operations to reflect these reportable segments.

## Significant Developments

During the year ended December 31, 2021 and through February 18, 2022, significant developments affecting our business and results of operations of our portfolio included the following:

### Capital Resources

- We completed the Internalization, consisting of the internalization of our management and operating functions and terminated our relationship with the Manager, a subsidiary of DigitalBridge, in accordance with the Termination Agreement. We paid the Manager a one-time termination fee of $102.3 million, and we no longer pay management or incentive fees to the Manager. We have achieved a savings in operating costs as a result of the Internalization;
- Executed a securitization transaction through BRSP 2021-FL1, contributing 31 floating rate mortgages secured by 42 properties, totaling $800 million, which resulted in the sale of $670 million of investment grade notes. The securitization reflects an advance rate of 83.75% at a weighted cost of funds of LIBOR plus 1.49% (before transaction expenses). In connection with this transaction, we repaid $701.4 million under our master repurchase facilities during the third quarter of 2021. At December 31, 2021, the securitization was collateralized by a pool of 33 senior loan investments. See "Liquidity and Capital Resources" below for further discussion;
- Declared total quarterly dividends of $0.58 per share for the year ended December 31, 2021;
- In January 2022, we amended our Bank Credit Facility to reduce the aggregate amount of lender commitments from $300 million to $165 million. We also amended five of our Master Repurchase Facilities to reduce the minimum tangible net worth covenant requirement from $1.4 billion to $1.1 billion. Lastly, we amended four of our Master Repurchase Facilities to expand the eligibility criteria to allow for loans indexed to SOFR, and to allow for borrowings under those facilities indexed to SOFR. See "Liquidity and Capital Resources" below for further discussion; and
- As of the date of this report, we have approximately $434 million of liquidity, consisting of $269 million cash on hand and $165 million available on our Bank Credit Facility.

**Our Portfolio**

- Generated U.S. GAAP net loss of $101.0 million, or ($0.79) per share, Distributable Earnings (Loss) of $58.7 million, or $(0.44) per share and Adjusted Distributable Earnings of $116.1 million, or $0.87 per share during the year ended December 31, 2021;
- We funded 64 senior mortgage loans with a total commitment of $1.9 billion. The average initial funded amount was $26.4 million and had a weighted average spread of 3.45% plus LIBOR;
- Received loan repayment proceeds of $519.1 million from 10 loans;
- We closed the sale of five development and/or non-accrual assets to managed vehicles of Fortress Investment Group LLC ("Fortress"), for gross proceeds of $223.0 million (the "Co-Invest Portfolio Sale"). We received net transaction proceeds of $198.3 million, primarily due to offsetting distributions from the underlying investments that we received between signing and closing. For the year ended December 31, 2021, we recorded total realized gains of $20.2 million related to this sale. See "Our Portfolio" below for further discussion;
- Following the Co-Invest Portfolio Sale, we used all the sale proceeds to substantially fund the repayment of the preferred financing arrangement (the "5-Investment Preferred Financing") managed by Goldman Sachs ("GS") totaling $210 million. The repayment allowed us to reclaim 100% ownership of the triple net warehouse distribution portfolio leased to a national grocery chain;
- Sold our retained investments in the subordinate tranches of one securitization trust for $28.7 million in total proceeds and deconsolidated the securitization trust with gross assets and liabilities of approximately $830.9 million and $802.2 million, respectively. In connection with the sale, we recognized a realized loss of $19.5 million and an unrealized gain of $19.5 million;
- Sold one industrial portfolio that generated gross and net proceeds of $335.0 million and $81.8 million, respectively. We recognized a gain on sale of $11.8 million;
- Recorded a fair value loss adjustment of $97.9 million on a mezzanine B-participation investment in a development project in Los Angeles, California, which represents our remaining proportionate share in the investment;
- Sold two CRE securities for $10.2 million in gross proceeds and realized a gain of $1.2 million. Following the sale, we no longer hold any CRE securities;
- Subsequent to December 31, 2021, we funded six senior mortgage loans with a total commitment of $274.9 million. The average initial funded amount was $39.9 million and had a weighted average spread of 3.55% plus SOFR. We also funded one mezzanine loan with a total commitment of $28.2 million and an initial funded amount of $7.4 million. The mezzanine loan has a fixed interest rate of 12.00%;
- Subsequent to December 31, 2021, we received loan repayment proceeds of $77.6 million from two loans;
- In January 2022, we sold one net leased real estate property for total gross proceeds of $19.6 million. In connection with the sale, we repaid $11.9 million of financing and incurred $1.0 million of selling costs. We received $6.7 million of net proceeds and will recognize a net gain of approximately $5.7 million.

**Factors Impacting Our Operating Results**

*Overview*

Our results of operations are affected by a number of factors and depend primarily on, among other things, the ability of the borrowers of our assets to service our debt as it is due and payable, the ability of our tenants to pay rent and other amounts due under their leases, our ability to actively and effectively service any sub-performing and non-performing loans and other assets we may have from time to time in our portfolio, the market value of our assets and the supply of, and demand for, CRE senior mortgage loans, mezzanine loans, preferred equity, debt securities, net leased properties and our other assets, and the level of our net operating income. Our net interest income, which includes the amortization of purchase premiums and the accretion of purchase discounts, varies primarily as a result of changes in market interest rates, prepayment rates on our CRE loans, prepayment speeds and the ability of our borrowers to make scheduled interest payments. Interest rates and prepayment rates vary according to the type of investment, conditions in the financial markets, credit-worthiness of our borrowers, competition and other factors, none of which can be predicted with any certainty. Our operating results also may be impacted by credit losses in excess of initial anticipations or unanticipated credit events experienced by borrowers whose mortgage loans are held directly by us or that are included in our CMBS. Our net property operating income depends on our ability to maintain the historical occupancy rates of our real estate equity investments, lease currently available space and continue to attract new tenants.

*Impact of the COVID-19 Pandemic on Our Business*

The COVID-19 pandemic has negatively impacted CRE credit REITs across the industry, as well as other companies that own and operate commercial real estate investments, including our company. As we manage the impact and uncertainties of the COVID-19 pandemic, cash preservation, liquidity and investment and portfolio management are our key priorities.

We continue to work closely with our borrowers and tenants to address the impact of COVID-19 on their businesses. To the extent that certain borrowers are experiencing significant financial dislocation we have and may continue to consider the use of interest and other reserves and/or replenishment obligations of the borrower and/or guarantors to meet current interest payment obligations, for a limited period. Similarly, we have and may in the future evaluate converting certain current interest payment obligations to payment-in-kind as a potential bridge period solution. We have in limited cases allowed some portions of current interest to convert to payment-in-kind.

The COVID-19 pandemic has created uncertainties that have and will continue to negatively impact our future operating results, liquidity and financial condition. However, we believe there are too many uncertainties to predict and quantify the continuing impact. The potential concerns and risks include, but are not limited to, mortgage borrowers ability to make monthly payments, lessees' capacity to pay their rent, and the resulting impact on us to meet our obligations. Therefore, there can be no assurances that we will not need to take impairment charges in future quarters or experience further declines in revenues and net income, which could be material. For more information, refer to "Part I - Item 1A. Risk Factors" of this Annual Report on Form 10-K for further discussion regarding the COVID-19 pandemic and its impact on our future operating results, liquidity and financial condition.

*Changes in fair value of our assets*

It is our business strategy to hold our target assets as long-term investments. As a result, we do not expect that changes in the market value of the assets will normally impact our operating results. However, at least on a quarterly basis, we assess both our ability and intent to continue to hold such assets as long-term investments. As part of this process, we monitor our target assets for "other-than-temporary" impairment. A change in our ability and/or intent to continue to hold any of our assets could result in our recognizing an impairment charge or realizing losses upon the sale of such securities.

*Changes in market interest rates*

With respect to our proposed business operations, increases in interest rates, in general, may over time cause:

- the value of fixed-rate investments to decrease;
- prepayments on certain assets in our portfolio to slow, thereby slowing the amortization of our purchase premiums and the accretion of our purchase discounts;
- coupons on our floating and adjustable-rate mortgage loans and CMBS to reset, although on a delayed basis, to higher interest rates;
- to the extent we use leverage to finance our assets, the interest expense associated with our borrowings to increase; and
- to the extent we enter into interest rate swap agreements as part of our hedging strategy, the value of these agreements to increase.

Conversely, decreases in interest rates, in general, may over time cause:

- the value of the fixed-rate assets in our portfolio to increase;
- prepayments on certain assets in our portfolio to increase, thereby accelerating the amortization of our purchase premiums and the accretion of our purchase discounts;
- to the extent we enter into interest rate swap agreements as part of our hedging strategy, the value of these agreements to decrease;
- coupons on our floating and adjustable-rate mortgage loans and CMBS to reset, although on a delayed basis, to lower interest rates; and
- to the extent we use leverage to finance our assets, the interest expense associated with our borrowings to decrease.

*Credit risk*

One objective of our strategy is to minimize credit losses. However, we are subject to varying degrees of credit risk in connection with our target assets. We seek to mitigate this risk by seeking to acquire high quality assets, at appropriate prices given anticipated and unanticipated losses and by deploying a comprehensive review and asset selection process and by careful ongoing monitoring of acquired assets. Nevertheless, unanticipated credit losses could occur, which could adversely impact our operating results.

*Size of investment portfolio*

The size of our portfolio, as measured by the aggregate principal balance of our commercial mortgage loans, other commercial real estate-related debt investments and the other assets we own, is also a key revenue driver. Generally, as the size of our portfolio grows, the amount of interest income we earn increases. However, a larger portfolio may result in increased expenses to the extent that we incur additional interest expense to finance our assets.

*Market conditions*

We believe that market conditions impact our operating results and will cause us to adjust our investment and financing strategies over time as new opportunities emerge and risk profiles of our business change. In addition, changes in government programs could impact our ability to identify suitable investments. Except as set forth above, we are not aware of any material trends or uncertainties, other than national economic conditions affecting mortgage loans, MBSs and real estate, generally, that may reasonably be expected to have a material impact, favorable or unfavorable, on revenues or income from the acquisition of real estate-related assets, other than those referred to in this Annual Report on Form 10-K.

### Our Portfolio

As of December 31, 2021, our portfolio consisted of 115 investments representing approximately $4.4 billion in book value (based on our share of ownership and excluding cash, cash equivalents and certain other assets). Our senior and mezzanine loans and preferred equity consisted of 98 senior mortgage loans, mezzanine loans and preferred equity investments and had a weighted average cash coupon of 3.7% and a weighted average all-in unlevered yield of 4.9%. Our net leased and other real estate consisted of approximately 6.5 million total square feet of space and total 2021 net operating income ("NOI") of that portfolio was approximately $55.3 million. Please refer to "Non-GAAP Supplemental Financial Measures" below for further information on NOI.

As of December 31, 2021, our portfolio consisted of the following investments (dollars in thousands):

| | Count[(1)] | Book value (Consolidated) | Book value (at BRSP share)[(2)] | Net book value (Consolidated)[(3)] | Net book value (at BRSP share)[(4)] |
|---|---|---|---|---|---|
| **Our Portfolio** | | | | | |
| Senior mortgage loans | 91 | $ 3,366,300 | $ 3,366,300 | $ 885,373 | $ 885,373 |
| Mezzanine loans[(5)] | 6 | 117,625 | 117,625 | 117,625 | 117,625 |
| Preferred equity[(5)(6)] | 1 | 16,200 | 16,200 | 16,200 | 16,200 |
| Subtotal | 98 | 3,500,125 | 3,500,125 | 1,019,198 | 1,019,198 |
| Net leased real estate | 9 | 673,707 | 673,707 | 185,717 | 185,717 |
| Other real estate | 3 | 212,605 | 199,003 | 5,156 | 4,768 |
| CRE debt securities | 4 | 36,154 | 36,154 | 36,154 | 36,154 |
| Private equity interests | 1 | 4,406 | 4,406 | 4,406 | 4,406 |
| **Total/Weighted average Our Portfolio** | 115 | $ 4,426,997 | $ 4,413,395 | $ 1,250,631 | $ 1,250,243 |

(1) Count for net leased real estate and other real estate represents number of investments.
(2) Book value at our share represents the proportionate book value based on ownership by asset as of December 31, 2021.
(3) Net book value represents book value less any associated financing as of December 31, 2021.
(4) Net book value at our share represents the proportionate book value based on asset ownership less any associated financing based on ownership as of December 31, 2021.
(5) Mezzanine loans and preferred equity include investments in joint ventures whose underlying interest is in a loan or preferred equity.
(6) Preferred equity balances include $16.2 million of book value at our share attributable to related equity participation interests.

*Underwriting Process*

We use an investment and underwriting process that has been developed by our senior management team leveraging their extensive commercial real estate expertise over many years and real estate cycles. The underwriting process focuses on some or all of the following factors designed to ensure each investment is evaluated appropriately: (i) macroeconomic conditions that may influence operating performance; (ii) fundamental analysis of underlying real estate, including tenant rosters, lease terms, zoning, necessary licensing, operating costs and the asset's overall competitive position in its market; (iii) real estate market factors that may influence the economic performance of the investment, including leasing conditions and overall competition; (iv) the operating expertise and financial strength and reputation of a tenant, operator, partner or borrower; (v) the cash flow in place and projected to be in place over the term of the investment and potential return; (vi) the appropriateness of the business plan and estimated costs associated with tenant buildout, repositioning or capital improvements; (vii) an internal and third-party valuation of a property, investment basis relative to the competitive set and the ability to liquidate an investment through a sale or refinancing; (viii) review of third-party reports including appraisals, engineering and environmental reports; (ix) physical inspections of properties and markets; (x) the overall legal structure of the investment, contractual implications and the lenders' rights; and (xi) the tax and accounting impact.

*Loan Risk Rankings*

In addition to reviewing loans and preferred equity held for investment for impairment quarterly, we evaluate loans and preferred equity held for investment to determine if an allowance for loan loss should be established. In conjunction with this review, we assess the risk factors of each senior and mezzanine loans and preferred equity and assign a risk ranking based on a variety of factors, including, without limitation, underlying real estate performance and asset value, values of comparable properties, durability and quality of property cash flows, sponsor experience and financial wherewithal, and the existence of a risk-mitigating loan structure. Additional key considerations include loan-to-value ratios, debt service coverage ratios, loan structure, real estate and credit market dynamics, and risk of default or principal loss. Based on a five-point scale, our loans and preferred equity held for investment are rated "1" through "5," from less risk to greater risk. At the time of origination or purchase, loans and preferred equity held for investment are ranked as a “3” and will move accordingly going forward based on the ratings which are defined as follows:

1. *Very Low Risk*—The loan is performing as agreed. The underlying property performance has exceeded underwritten expectations with very strong NOI, debt service coverage ratio, debt yield and occupancy metrics. Sponsor is investment grade, very well capitalized, and employs a very experienced management team.

2. *Low Risk*—The loan is performing as agreed. The underlying property performance has met or exceeds underwritten expectations with high occupancy at market rents, resulting in consistent cash flow to service the debt. Strong sponsor that is well capitalized with experienced management team.

3. *Average Risk*—The loan is performing as agreed. The underlying property performance is consistent with underwriting expectations. The property generates adequate cash flow to service the debt, and/or there is enough reserve or loan structure to provide time for sponsor to execute the business plan. Sponsor has routinely met its obligations and has experience owning/operating similar real estate.

4. *High Risk/Delinquent/Potential for Loss*—The loan is in excess of 30 days delinquent and/or has a risk of a principal loss. The underlying property performance is behind underwritten expectations. Loan covenants may require occasional waivers/modifications. Sponsor has been unable to execute its business plan and local market fundamentals have deteriorated. Operating cash flow is not sufficient to service the debt and debt service payments may be coming from sponsor equity/loan reserves.

5. *Impaired/Defaulted/Loss Likely*—The loan is in default or a default is imminent, and has a high risk of a principal loss, or has incurred a principal loss. The underlying property performance is significantly worse than underwritten expectation and sponsor has failed to execute its business plan. The property has significant vacancy and current cash flow does not support debt service. Local market fundamentals have significantly deteriorated resulting in depressed comparable property valuations versus underwriting.

As mentioned above, management considers several risk factors when assigning our risk ranking each quarter. We believe the long-term impacts of the COVID-19 pandemic remain uncertain, and therefore continue to represent a risk to our portfolio. However, the origination of 64 new loans during 2021, an improved outlook in others and certain asset resolutions, resulted in an average risk rating of 3.1 at December 31, 2021. This is an improvement as compared to the average risk ranking of 3.7 at December 31, 2020.

***Senior and Mezzanine Loans and Preferred Equity***

Our senior and mezzanine loans and preferred equity consists of senior mortgage loans, mezzanine loans and preferred equity interests, some of which have equity participation interests.

The following table provides a summary of our senior and mezzanine loans and preferred equity based on our internal risk rankings as of December 31, 2021 (dollars in thousands):

| | | Carrying Value (at BRSP share)[(1)] | | | | |
|---|---|---|---|---|---|---|
| **Risk Ranking** | **Count** | **Senior mortgage loans[(2)]** | **Mezzanine loans** | **Preferred equity** | **Total** | **% of Our Portfolio** |
| 2 | 16 | $ 422,380 | $ — | $ — | $ 422,380 | 12.1 % |
| 3 | 67 | 2,204,930 | 43,284 | — | 2,248,214 | 64.2 % |
| 4 | 13 | 729,948 | 45,300 | 16,200 | 791,448 | 22.6 % |
| 5 | 2 | 38,083 | — | — | 38,083 | 1.1 % |
| | 98 | $ 3,395,341 | $ 88,584 | $ 16,200 | $ 3,500,125 | 100.0 % |
| Weighted average risk ranking | | | | | | 3.1 |

(1) Carrying value at our share represents the proportionate book value based on ownership by asset as of December 31, 2021.
(2) Includes one mezzanine loan totaling $29.0 million where we are also the senior lender.

The following table provides asset level detail for our senior and mezzanine loans and preferred equity as of December 31, 2021 (dollars in thousands):

| | Collateral type | Origination Date | City, State | Carrying value[1] | Principal balance | Coupon type | Cash Coupon[2] | Unlevered all-in yield[3] | Extended maturity date | Loan-to-value[4] | Q4 Risk ranking[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Senior loans** | | | | | | | | | | | |
| Loan 1 | Hotel | 1/2/2018 | San Jose, CA | $ 184,959 | $ 184,959 | Floating | 4.8% | 5.3% | 11/9/2026 | 74% | 4 |
| Loan 2 | Multifamily | 6/21/2019 | Milpitas, CA | 183,711 | 183,501 | Floating | 3.1% | 5.5% | 7/9/2024 | 72% | 3 |
| Loan 3 | Office | 12/7/2018 | Carlsbad, CA | 120,000 | 120,000 | Floating | 4.3% | 4.6% | 12/9/2023 | 73% | 3 |
| Loan 4 | Hotel | 6/28/2018 | Berkeley, CA | 119,608 | 120,000 | Floating | 3.2% | 5.2% | 7/9/2025 | 66% | 4 |
| Loan 5 | Office | 5/31/2019 | Stamford, CT | 119,583 | 120,105 | Floating | 3.5% | 5.8% | 6/9/2025 | 71% | 3 |
| Loan 6[6] | Multifamily | 6/18/2019 | Santa Clara, CA | 106,679 | 106,691 | Floating | 4.4% | 7.1% | 6/18/2024 | 70% | 4 |
| Loan 7 | Other (Mixed-use) | 10/24/2019 | Brooklyn, NY | 75,686 | 75,693 | Floating | 4.0% | 4.8% | 11/9/2024 | 70% | 3 |
| Loan 8 | Office | 8/28/2018 | San Jose, CA | 73,147 | 73,147 | Floating | 2.5% | 4.3% | 8/28/2025 | 75% | 3 |
| Loan 9 | Hotel | 6/25/2018 | Englewood, CO | 73,000 | 73,000 | Floating | 3.5% | 5.1% | 2/9/2025 | 69% | 3 |
| Loan 10 | Office | 1/19/2021 | Phoenix, AZ | 71,888 | 72,460 | Floating | 3.6% | 4.4% | 2/9/2026 | 70% | 3 |
| Loan 11 | Office | 5/29/2019 | Long Island City, NY | 66,244 | 66,271 | Floating | 3.5% | 5.9% | 6/9/2024 | 59% | 4 |
| Loan 12 | Office | 4/5/2019 | Long Island City, NY | 65,480 | 65,480 | Floating | 3.3% | 5.7% | 4/9/2024 | 58% | 4 |
| Loan 13 | Office | 2/3/2019 | Baltimore, MD | 56,980 | 57,006 | Floating | 3.5% | 6.2% | 2/9/2024 | 74% | 4 |
| Loan 14 | Office | 7/12/2019 | Washington, D.C. | 56,080 | 56,081 | Floating | 2.8% | 5.5% | 8/9/2024 | 68% | 4 |
| Loan 15 | Multifamily | 12/23/2020 | Salt Lake City, UT | 50,891 | 51,100 | Floating | 3.2% | 4.0% | 1/9/2026 | 68% | 2 |
| Loan 16 | Multifamily | 7/19/2021 | Dallas, TX | 47,666 | 47,950 | Floating | 3.3% | 3.9% | 8/9/2026 | 74% | 3 |
| Loan 17 | Multifamily | 5/26/2021 | Las Vegas, NV | 44,462 | 44,713 | Floating | 3.4% | 3.9% | 6/9/2026 | 80% | 3 |
| Loan 18 | Multifamily | 11/30/2021 | Phoenix, AZ | 43,013 | 43,457 | Floating | 3.4% | 4.0% | 12/9/2026 | 74% | 3 |
| Loan 19 | Multifamily | 3/1/2021 | Richardson, TX | 42,909 | 43,227 | Floating | 3.4% | 3.8% | 3/9/2026 | 75% | 3 |
| Loan 20 | Multifamily | 7/15/2021 | Jersey City, NJ | 42,735 | 43,000 | Floating | 3.0% | 3.5% | 8/9/2026 | 66% | 2 |
| Loan 21 | Multifamily | 12/21/2020 | Austin, TX | 42,572 | 42,850 | Floating | 3.7% | 5.0% | 1/9/2026 | 54% | 2 |
| Loan 22 | Multifamily | 2/3/2021 | Arlington, TX | 41,241 | 41,335 | Floating | 3.6% | 4.9% | 2/9/2026 | 81% | 2 |
| Loan 23 | Multifamily | 2/8/2019 | Las Vegas, NV | 41,099 | 41,099 | Floating | 3.2% | 5.7% | 2/9/2024 | 71% | 3 |
| Loan 24 | Multifamily | 3/22/2021 | Fort Worth, TX | 38,468 | 38,682 | Floating | 3.5% | 4.1% | 4/9/2026 | 83% | 3 |
| Loan 25 | Office | 11/23/2021 | Tualatin, OR | 38,104 | 38,547 | Floating | 3.9% | 4.3% | 12/9/2026 | 66% | 3 |
| Loan 26 | Multifamily | 4/11/2019 | Houston, TX | 38,083 | 39,335 | Floating | 3.0% | 5.8% | 4/9/2024 | 65% | 5 |
| Loan 27 | Multifamily | 3/25/2021 | Fort Worth, TX | 36,863 | 37,140 | Floating | 3.3% | 3.9% | 4/9/2026 | 82% | 3 |
| Loan 28 | Multifamily | 12/7/2021 | Denver, CO | 36,459 | 36,850 | Floating | 3.2% | 3.6% | 12/9/2026 | 74% | 3 |
| Loan 29 | Office | 9/28/2021 | Reston, VA | 35,226 | 35,606 | Floating | 4.0% | 4.6% | 10/9/2026 | 68% | 3 |
| Loan 30 | Office | 11/17/2021 | Dallas, TX | 34,851 | 35,250 | Floating | 3.9% | 4.3% | 12/9/2025 | 61% | 3 |
| Loan 31 | Multifamily | 12/29/2020 | Fullerton, CA | 34,637 | 34,860 | Floating | 3.8% | 4.8% | 1/9/2026 | 70% | 3 |
| Loan 32 | Office | 6/16/2017 | Miami, FL | 34,036 | 33,696 | Floating | 4.9% | 5.6% | 7/9/2022 | 68% | 3 |
| Loan 33 | Multifamily | 7/15/2021 | Dallas, TX | 33,702 | 34,036 | Floating | 3.1% | 3.5% | 8/9/2026 | 77% | 3 |
| Loan 34 | Multifamily | 9/28/2021 | Carrollton, TX | 33,561 | 33,908 | Floating | 3.1% | 3.5% | 10/9/2025 | 73% | 3 |
| Loan 35 | Multifamily | 3/16/2021 | Fremont, CA | 32,903 | 33,152 | Floating | 3.5% | 4.3% | 4/9/2026 | 76% | 3 |
| Loan 36 | Office | 6/2/2021 | South Pasadena, CA | 32,145 | 32,302 | Floating | 4.9% | 5.6% | 6/9/2026 | 69% | 3 |
| Loan 37 | Multifamily | 7/29/2021 | Phoenix, AZ | 30,896 | 31,200 | Floating | 3.3% | 3.8% | 8/9/2026 | 75% | 3 |
| Loan 38 | Office | 3/28/2019 | San Jose, CA | 30,762 | 30,762 | Floating | 3.0% | 5.7% | 4/9/2024 | 64% | 2 |
| Loan 39 | Office | 4/30/2021 | San Diego, CA | 30,415 | 30,700 | Floating | 3.6% | 4.1% | 5/9/2026 | 55% | 3 |
| Loan 40 | Multifamily | 3/31/2021 | Mesa, AZ | 30,318 | 30,493 | Floating | 3.7% | 4.4% | 4/9/2026 | 83% | 3 |
| Loan 41 | Multifamily | 5/5/2021 | Dallas. TX | 29,547 | 29,749 | Floating | 3.4% | 4.0% | 5/9/2026 | 68% | 3 |
| Loan 42 | Multifamily | 4/29/2021 | Las Vegas, NV | 28,419 | 28,605 | Floating | 3.1% | 3.6% | 5/9/2026 | 76% | 2 |
| Loan 43 | Office | 11/19/2021 | Gardena, CA | 28,107 | 28,505 | Floating | 3.5% | 3.9% | 12/9/2026 | 69% | 3 |
| Loan 44 | Multifamily | 5/27/2021 | Houston, TX | 27,802 | 28,000 | Floating | 3.0% | 3.7% | 6/9/2026 | 67% | 3 |
| Loan 45 | Office | 10/21/2021 | Blue Bell, PA | 27,743 | 27,930 | Floating | 3.7% | 4.1% | 11/9/2023 | 67% | 3 |
| Loan 46 | Multifamily | 7/13/2021 | Plano, TX | 27,529 | 27,715 | Floating | 3.1% | 3.5% | 2/9/2025 | 82% | 3 |
| Loan 47 | Multifamily | 12/16/2021 | Fort Mill, SC | 25,818 | 26,100 | Floating | 3.2% | 3.6% | 1/9/2027 | 71% | 3 |
| Loan 48 | Office | 2/26/2019 | Charlotte, NC | 25,790 | 26,052 | Floating | 3.3% | 3.7% | 3/9/2024 | 56% | 2 |

| | Collateral type | Origination Date | City, State | Carrying value[(1)] | Principal balance | Coupon type | Cash Coupon[(2)] | Unlevered all-in yield[(3)] | Extended maturity date | Loan-to-value[(4)] | Q4 Risk ranking[(5)] |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Loan 49 | Multifamily | 8/31/2021 | Glendale, AZ | 25,377 | 25,649 | Floating | 3.2% | 3.6% | 9/9/2026 | 75% | 3 |
| Loan 50 | Office | 11/23/2021 | Oakland, CA | 24,726 | 25,000 | Floating | 4.2% | 4.6% | 12/9/2026 | 57% | 3 |
| Loan 51 | Multifamily | 5/13/2021 | Phoenix, AZ | 24,260 | 24,469 | Floating | 3.1% | 3.5% | 6/9/2026 | 76% | 2 |
| Loan 52 | Office | 9/26/2019 | Salt Lake City, UT | 24,260 | 24,373 | Floating | 2.7% | 5.0% | 10/9/2024 | 72% | 4 |
| Loan 53 | Office | 12/7/2021 | Hillsboro, OR | 24,236 | 24,511 | Floating | 3.9% | 4.3% | 12/9/2024 | 68% | 3 |
| Loan 54 | Multifamily | 12/21/2021 | Phoenix, AZ | 24,051 | 24,325 | Floating | 3.5% | 3.9% | 1/9/2027 | 75% | 3 |
| Loan 55 | Multifamily | 1/29/2021 | Charlotte, NC | 23,334 | 23,500 | Floating | 3.5% | 4.1% | 2/9/2026 | 76% | 3 |
| Loan 56 | Office | 9/16/2019 | San Francisco, CA | 22,951 | 22,951 | Floating | 3.2% | 5.7% | 10/9/2024 | 72% | 3 |
| Loan 57 | Multifamily | 7/1/2021 | Aurora, CO | 22,839 | 23,043 | Floating | 3.1% | 3.6% | 7/9/2026 | 73% | 3 |
| Loan 58 | Multifamily | 3/25/2021 | San Jose, CA | 22,481 | 22,650 | Floating | 3.7% | 4.1% | 4/9/2026 | 70% | 2 |
| Loan 59 | Multifamily | 10/7/2021 | Irving, TX | 22,313 | 22,400 | Floating | 3.4% | 4.1% | 9/1/2024 | 70% | 3 |
| Loan 60 | Multifamily | 11/4/2021 | Austin, TX | 21,727 | 21,967 | Floating | 3.3% | 3.7% | 11/9/2026 | 71% | 3 |
| Loan 61 | Office | 7/30/2021 | Denver, CO | 21,452 | 21,705 | Floating | 4.3% | 4.7% | 8/9/2026 | 72% | 3 |
| Loan 62 | Multifamily | 7/13/2021 | Oregon City, OR | 21,209 | 21,353 | Floating | 3.3% | 3.7% | 8/9/2026 | 73% | 3 |
| Loan 63 | Multifamily | 2/25/2021 | Raleigh, NC | 20,896 | 21,072 | Floating | 3.3% | 4.0% | 3/9/2026 | 76% | 2 |
| Loan 64 | Office | 8/27/2019 | San Francisco, CA | 20,623 | 20,623 | Floating | 2.8% | 5.4% | 9/9/2024 | 73% | 4 |
| Loan 65 | Multifamily | 6/22/2021 | Phoenix, AZ | 20,597 | 20,798 | Floating | 3.2% | 3.6% | 7/9/2026 | 75% | 2 |
| Loan 66 | Multifamily | 9/22/2021 | Denton, TX | 19,209 | 19,351 | Floating | 3.2% | 3.6% | 10/9/2025 | 70% | 3 |
| Loan 67[(7)] | Hotel | 7/30/2020 | Bloomington, MN | 19,153 | 19,153 | Floating | 4.0% | 5.0% | 2/9/2022 | 64% | 3 |
| Loan 68 | Multifamily | 3/31/2021 | San Antonio, TX | 19,044 | 19,204 | Floating | 3.1% | 3.6% | 4/9/2026 | 77% | 3 |
| Loan 69 | Multifamily | 12/21/2021 | Gresham, OR | 18,996 | 19,199 | Floating | 3.5% | 3.9% | 1/9/2027 | 74% | 3 |
| Loan 70 | Multifamily | 8/6/2021 | La Mesa, CA | 18,675 | 18,824 | Floating | 2.9% | 3.5% | 8/9/2025 | 70% | 3 |
| Loan 71 | Office | 10/29/2020 | Denver, CO | 18,564 | 18,708 | Floating | 3.6% | 4.7% | 11/9/2025 | 64% | 3 |
| Loan 72 | Multifamily | 6/24/2021 | Phoenix, AZ | 18,369 | 18,548 | Floating | 3.4% | 4.0% | 7/9/2026 | 74% | 3 |
| Loan 73 | Multifamily | 9/1/2021 | Bellevue, WA | 17,849 | 18,013 | Floating | 2.9% | 3.5% | 9/9/2025 | 64% | 3 |
| Loan 74 | Multifamily | 7/14/2021 | Salt Lake City, UT | 17,759 | 17,874 | Floating | 3.3% | 3.7% | 8/9/2026 | 73% | 3 |
| Loan 75 | Multifamily | 6/25/2021 | Phoenix, AZ | 16,280 | 16,428 | Floating | 3.2% | 3.6% | 7/9/2026 | 75% | 3 |
| Loan 76 | Multifamily | 11/24/2020 | Tucson, AZ | 15,638 | 15,662 | Floating | 3.6% | 4.7% | 12/9/2025 | 75% | 2 |
| Loan 77 | Office | 10/13/2021 | Burbank, CA | 15,347 | 15,538 | Floating | 3.9% | 4.3% | 11/9/2026 | 65% | 3 |
| Loan 78 | Multifamily | 6/15/2021 | Phoenix, AZ | 15,297 | 15,392 | Floating | 3.3% | 3.7% | 7/9/2026 | 74% | 3 |
| Loan 79 | Multifamily | 3/5/2021 | Tucson, AZ | 15,234 | 15,289 | Floating | 3.7% | 4.3% | 3/9/2026 | 72% | 2 |
| Loan 80 | Multifamily | 3/31/2021 | Albuquerque, NM | 14,694 | 14,816 | Floating | 3.4% | 3.9% | 4/9/2026 | 76% | 2 |
| Loan 81 | Office | 8/31/2021 | Los Angeles, CA | 14,361 | 14,570 | Floating | 5.0% | 5.7% | 9/9/2026 | 66% | 3 |
| Loan 82 | Multifamily | 2/8/2019 | Las Vegas, NV | 14,259 | 14,259 | Floating | 3.2% | 5.7% | 2/9/2024 | 71% | 2 |
| Loan 83 | Office | 11/16/2021 | Charlotte, NC | 14,167 | 14,370 | Floating | 4.4% | 4.8% | 12/9/2026 | 71% | 3 |
| Loan 84 | Multifamily | 5/27/2021 | Phoenix, AZ | 13,965 | 14,086 | Floating | 3.1% | 3.5% | 6/9/2026 | 72% | 3 |
| Loan 85 | Multifamily | 7/21/2021 | Durham, NC | 13,799 | 13,933 | Floating | 3.3% | 3.7% | 8/9/2026 | 72% | 3 |
| Loan 86 | Multifamily | 10/7/2021 | Tallahassee, FL | 13,545 | 13,650 | Floating | 3.5% | 3.9% | 8/1/2024 | 64% | 3 |
| Loan 87 | Multifamily | 2/11/2021 | Provo, UT | 13,341 | 13,442 | Floating | 3.8% | 4.6% | 3/9/2026 | 71% | 3 |
| Loan 88 | Office | 11/10/2021 | Richardson, TX | 13,279 | 13,400 | Floating | 4.0% | 4.4% | 12/9/2026 | 71% | 3 |
| Loan 89 | Multifamily | 7/28/2021 | San Antonio, TX | 13,250 | 13,369 | Floating | 3.3% | 4.0% | 8/9/2024 | 76% | 3 |
| Loan 90 | Multifamily | 2/25/2021 | Louisville, KY | 11,911 | 12,000 | Floating | 3.9% | 4.4% | 3/9/2026 | 74% | 2 |
| Loan 91 | Multifamily | 4/9/2021 | Phoenix, AZ | 11,166 | 11,258 | Floating | 3.6% | 4.1% | 4/9/2026 | 75% | 3 |
| **Total/Weighted average senior loans** | | | | $ 3,366,300 | $ 3,383,025 | | 3.5% | 4.7% | 8/15/2025 | 70% | 3.1 |
| **Mezzanine loans** | | | | | | | | | | | |
| Loan 92[(6)] | Multifamily | 12/3/2019 | Milpitas, CA | $ 38,796 | $ 38,885 | Fixed | 8.0% | 13.3% | 12/3/2024 | 49% – 71% | 3 |
| Loan 93[(6)] | Multifamily | 7/11/2019 | Placentia, CA | 33,180 | 33,222 | Fixed | 8.0% | 13.3% | 7/11/2024 | 51% – 84% | 4 |
| Loan 94 | Hotel | 9/23/2019 | Berkeley, CA | 29,040 | 29,040 | Fixed | 11.5% | 11.5% | 7/9/2025 | 66% – 81% | 4 |
| Loan 95 | Hotel | 1/9/2017 | New York, NY | 12,120 | 12,000 | Floating | 11.0% | 11.5% | 9/9/2022 | 63% – 76% | 4 |
| Loan 96 | Multifamily | 7/30/2014 | Various - TX | 4,489 | 4,489 | Fixed | 9.5% | 9.5% | 8/11/2024 | 71% – 83% | 3 |

| | Collateral type | Origination Date | City, State | Carrying value[1] | Principal balance | Coupon type | Cash Coupon[2] | Unlevered all-in yield[3] | Extended maturity date | Loan-to-value[4] | Q4 Risk ranking[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Loan 97[6][8] | Other (Mixed-use) | 9/1/2020 | Los Angeles, CA | — | 162,243 | n/a [8] | n/a [8] | n/a [8] | 7/9/2023 | n/a | 5 |
| **Total/Weighted average mezzanine loans** | | | | $ 117,625 | $ 279,879 | | 9.2% | 12.5% | 9/18/2024 | 58% - 78% | 3.6 |
| | | | | | | | | | | | |
| **Preferred equity** | | | | | | | | | | | |
| Loan 98[9] | Industrial | 9/1/2016 | Various - U.S. | $ 16,200 | $ — | n/a | n/a | n/a | 9/2/2027 | n/a | 4 |
| **Total/Weighted average preferred equity** [10] | | | | $ 16,200 | $ — | | | n/a | 9/2/2027 | n/a | 4.0 |
| | | | | | | | | | | | |
| **Total/Weighted average senior and mezzanine loans and preferred equity - Our Portfolio** | | | | $ 3,500,125 | $ 3,662,904 | | 3.7% | 4.9% | 8/7/2025 | n/a | 3.1 |

(1) Represents carrying values at our share as of December 31, 2021.
(2) Represents the stated coupon rate for loans; for floating rate loans, does not include USD 1-month London Interbank Offered Rate ("LIBOR") which was 0.10% as of December 31, 2021.
(3) In addition to the stated cash coupon rate, unlevered all-in yield includes non-cash payment in-kind interest income and the accrual of origination, extension and exit fees. Unlevered all-in yield for the loan portfolio assumes the applicable floating benchmark rate as of December 31, 2021 for weighted average calculations.
(4) Except for construction loans, senior loans reflect the initial loan amount divided by the as-is value as of the date the loan was originated, or the principal amount divided by the appraised value as of the date of the most recent as-is appraisal. Mezzanine loans include attachment loan-to-value and detachment loan-to-value, respectively. Attachment loan-to-value reflects initial funding of loans senior to our position divided by the as-is value as of the date the loan was originated, or the principal amount divided by the appraised value as of the date of the most recent appraisal. Detachment loan-to-value reflects the cumulative initial funding of our loan and the loans senior to our position divided by the as-is value as of the date the loan was originated, or the cumulative principal amount divided by the appraised value as of the date of the most recent appraisal.
(5) On a quarterly basis, the Company's senior and mezzanine loans and preferred equity are rated "1" through "5," from less risk to greater risk. Represents risk ranking as of December 31, 2021.
(6) Construction senior loans' loan-to-value reflect the total commitment amount of the loan divided by as-completed appraised value, or the total commitment amount of the loan divided by the projected total cost basis. Construction mezzanine loans include attachment loan-to-value and detachment loan-to-value, respectively. Attachment loan-to-value reflects the total commitment amount of loans senior to our position divided by as-completed appraised value, or the total commitment amount of loans senior to our position divided by projected total cost basis. Detachment loan-to-value reflect the cumulative commitment amount of our loan and the loans senior to our position divided by as-completed appraised value, or the cumulative commitment amount of our loan and loans senior to our position divided by projected total cost basis.
(7) Subsequent to December 31, 2021, the maturity date for Loan 67 was extended to May 9, 2022.
(8) Loan 97 is on nonaccrual status as of December 31, 2021; as such, no income is being recognized.
(9) Represents equity participation interest related to a preferred equity investment.
(10) Weighted average calculation for preferred equity excludes equity participation interests.

The following table details the types of properties securing our senior and mezzanine loans and preferred equity and geographic distribution as of December 31, 2021 (dollars in thousands):

| | Book value (at BRSP share) | | | | |
|---|---|---|---|---|---|
| **Collateral property type** | **Count** | **Senior mortgage loans** | **Mezzanine loans and preferred equity** | **Total** | **% of Total** |
| Multifamily | 60 | $ 1,733,353 | $ 76,465 | $ 1,809,818 | 51.6 % |
| Office | 29 | 1,160,548 | — | 1,160,548 | 33.2 % |
| Hotel | 6 | 396,713 | 41,160 | 437,873 | 12.5 % |
| Other (Mixed-use)[1] | 2 | 75,686 | — | 75,686 | 2.2 % |
| Industrial | 1 | — | 16,200 | 16,200 | 0.5 % |
| **Total** | 98 | $ 3,366,300 | $ 133,825 | $ 3,500,125 | 100.0 % |

| | Book value (at BRSP share) | | | | |
|---|---|---|---|---|---|
| **Region** | **Count** | **Senior mortgage loans** | **Mezzanine loans and preferred equity** | **Total** | **% of Total** |
| US West | 37 | $ 1,537,178 | $ 101,015 | $ 1,638,193 | 46.8 % |
| US Southwest | 40 | 1,080,914 | 4,490 | 1,085,404 | 31.2 % |
| US Northeast | 9 | 510,533 | 12,120 | 522,653 | 14.8 % |
| US Southeast | 10 | 218,522 | — | 218,522 | 6.2 % |
| US Midwest | 2 | 19,153 | 16,200 | 35,353 | 1.0 % |
| **Total** | 98 | $ 3,366,300 | $ 133,825 | $ 3,500,125 | 100.0 % |

(1) Other includes commercial and residential development and predevelopment assets.

Due to the continued impact of COVID-19, we expect some borrowers may continue to experience difficulties making their loan payments over the next several quarters. Failure of our borrowers to meet their loan obligations will not only impact our financial results but may also trigger repayments under our master repurchase facilities. Our asset management team speaks with borrowers on a reasonably current basis, and seeks to identify issues and address potential value preserving solutions, which may include a loan modification.

At December 31, 2021 our current expected credit loss reserve ("CECL") calculated by our probability of default ("PD")/loss given default ("LGD") model for our outstanding loans and future loan funding commitments is $35.8 million, which is 0.96% of the aggregate commitment amount of our loan portfolio. This represents a decrease of $7.9 million from $43.7 million at September 30, 2021, which was primarily driven by loan repayments and improved operating performance of the underlying collateral on certain loans, partially offset by day one reserves on newly originated loans during the fourth quarter. In addition, we individually evaluated outside of the PD/LGD model and recorded a $1.3 million allowance for loan loss on one senior loan collateralized by a student housing property.

***Asset Specific Summaries: Senior and Mezzanine Loans and Preferred Equity***

*The Co-Invest Portfolio Sale*

On December 20, 2021, we closed the sale of five legacy development and/or non-accrual assets to managed vehicles of Fortress Investment Group LLC ("Fortress"), for gross proceeds of $223 million (the "Co-Invest Portfolio Sale"). We received net transaction proceeds of $198.3 million, primarily due to offsetting distributions from the underlying investments that we received between signing and closing.

The Co-Invest Portfolio Sale included four co-investments: two Dublin, Ireland development loans and two U.S. mixed-use and single-family development loans, as well as a residual hotel loan equity participation interest in Austin, Texas. The Co-Invest Portfolio Sale resolved five of six legacy investment assets owned alongside investment vehicles managed by DigitalBridge Group, Inc.

For the year ended December 31, 2021, we recorded total realized gains of $20.2 million in connection with the Co-Invest Portfolio Sale. This included a $29.9 million gain related to designated foreign currency hedges which were settled in 2020 and released from accumulated other comprehensive income in 2021 upon the closing of the Co-Invest Portfolio Sale, a $6.4 million gain received on certain non-designated hedges that we put in place to mitigate the risk of currency translation on our foreign currency denominated assets sold and tax expense of $6.0 million.

The Co-Invest Portfolio Sale included four of the investments included in our "5-Investment Preferred Financing," a COVID-19 related financing secured in June 2020 for balance sheet protective purposes. We used all the proceeds from the Co-Invest Portfolio Sale to substantially fund the repayment of the "5-Investment Preferred Financing" during the fourth quarter of 2021. Refer to "Liquidity and Capital Resources" section for further discussion.

*Berkeley, California Hotel Senior Loan and Mezzanine Loan*

| | Loan Type | Collateral type | Origination Date | Carrying value | Principal balance | Coupon type | Cash Coupon | Unlevered all-in yield | Extended maturity date | Loan-to-value[(1)] | Q4 Risk ranking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Loan 4 | Senior | Hotel | 6/28/2018 | $ 119,608 | $ 120,000 | Floating | 3.2% | 5.2% | 7/9/2025 | 66% | 4 |
| Loan 94 | Mezzanine | Hotel | 9/23/2019 | 29,040 | 29,040 | Fixed | 11.5% | 11.5% | 7/9/2025 | 66% -81% | 4 |

(1) Loan-to-value is calculated using the as-is value on the date of loan origination.

We originated a $109.8 million senior loan in 2018 to replace the sponsor's existing financing on a hotel located in Berkeley, California (the "Berkeley Hotel"). The hotel includes meeting space, full-service restaurants and tennis club facilities. The loan included an initial funding of $98.8 million with an additional $11.0 million of future advances. The sponsor purchased the Berkeley Hotel in 2014 for a purchase price of $89.5 million and has spent a significant amount on capital improvements. In September 2019, we upsized the senior loan to $120.0 million and provided a $28.3 million mezzanine loan to facilitate the sponsor's acquisition of a third party's equity interest in the property. Due to the COVID-19 pandemic the Berkeley Hotel was closed from April through July of 2020, during which time the loan stayed current through the combination of federal loans (Paycheck Protection Program), borrower reserves, and lender advances from the mezzanine loan.

The hotel partially re-opened in August 2020 and shortly thereafter began generating cash flow. Operating performance has steadily improved in 2021 at the Berkeley Hotel. In October 2021 the cash flow was 1.5 times the debt service, but due to seasonality, November 2021 and December 2021 cash flows were insufficient to service the debt. The borrower supported debt service shortfalls out-of-pocket, as they have previously during the pandemic. The borrower agreed to fund two additional months of interest to the interest reserve, bringing the interest reserve balance to 90 days of interest on the senior and mezzanine loans combined, and in exchange we delayed the debt service hurdle test until loan maturity in July 2023. COVID-19 cases in California continue to impact occupancy, which may influence future borrower actions and support at the Berkeley Hotel and have a negative impact on performance of the asset and the value of our investment interest.

*Long Island City, New York Office Senior Loans*

| | Loan Type | Collateral type | Origination Date | Carrying value | Principal balance | Coupon type | Cash Coupon | Unlevered all-in yield | Extended maturity date | Loan-to-value(1) | Q4 Risk ranking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Loan 11 | Senior | Office | 5/29/2019 | $ 66,244 | $ 66,271 | Floating | 3.5% | 5.9% | 6/9/2024 | 59% | 4 |
| Loan 12 | Senior | Office | 4/5/2019 | 65,480 | 65,480 | Floating | 3.3% | 5.7% | 4/9/2024 | 58% | 4 |

(1) Loan-to-value is calculated using the as-is value on the date of loan origination.

We originated two senior mortgage loans on two transitional office properties to the same sponsorship group. However, the borrowing entities are unrelated and the loans are neither cross-collateralized nor cross defaulted.

The New York City metro office markets have experienced substantial increases in vacancy rates due to the COVID-19 pandemic. The Long Island City market has experienced further increases in vacancy as newly developed or renovated properties have become available for leasing. Additionally, the availability of significant sub-lease space in Long Island City has created additional supply at below market rents. There is increasing confidence among market participants that office demand will increase in the near future, once tenants solidify their return-to-work plans. However, the timeline may not be rapid enough to remedy the negative impact on sponsor's business plans and leasing activity for these two properties. As such, the underlying individual property cash flows are insufficient to cover their respective debt service payments. In March 2021, we agreed to shift future funding advances from the tenant improvements and leasing costs account to be used for interest carry and operations shortfalls for a period of six months on Loan 11 and twelve months on Loan 12. The six-month shortfall future funding advance period expired in August 2021 for Loan 11 and the borrower deposited six months interest and carry in exchange for certain waivers and extensions that extend through September 2022. In January 2022, we agreed to shift additional future funding advances from the tenant improvements and leasing costs account to be used for interest carry and operations shortfalls for a period of six months for Loan 12 in exchange for a borrower deposit of six months of interest and carry.

In regards to leasing activity at these properties during the fourth quarter of 2021, Loan 11 in-place leases increased from 7% to 10% of the property and Loan 12 in-place leases increased from 21% to 30% of the property. Additionally, both loans generate incremental revenue from license agreements for rooftop signage. Loan 12 also generates incremental revenue from a license agreement for antenna space. It is possible that uncertain market conditions and borrower actions may result in a future valuation impairment or investment loss.

*Payment-In-Kind ("PIK") Interest Income*

We have debt investments in our portfolio that contain a PIK provision. Contractual PIK interest, which represents contractually deferred interest added to the loan balance that is due at the end of the loan term, is generally recorded on an accrual basis to the extent such amounts are expected to be collected. During the year ended December 31, 2021, we recorded total PIK interest of $21.5 million. We will cease accruing PIK interest if there is insufficient value to support the accrual or management does not expect the borrower to be able to pay all principal and interest due.

***Net Leased and Other Real Estate***

Our net leased real estate investment strategy focuses on direct ownership in commercial real estate with an emphasis on properties with stable cash flow, which may be structurally senior to a third-party partner's equity. In addition, we may own net leased real estate investments through joint ventures with one or more partners. As part of our net leased real estate strategy, we explore a variety of real estate investments including multi-tenant office, multifamily, student housing and industrial. These properties are typically well-located with strong operating partners and we believe offer both attractive cash flow and returns. Additionally, we have three investments in direct ownership of commercial real estate with an emphasis on properties with stable cash flow, which may be structurally senior to a third-party partner's equity. We own these operating real estate investments through joint ventures with one or more partners. These properties are typically well-located with strong operating partners.

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As of December 31, 2021, $872.7 million or 19.8% of our assets were invested in net leased and other real estate properties and these properties were 97.0% occupied. The following table presents our net leased and other real estate investments as of December 31, 2021 (dollars in thousands):

| | Count[(1)] | Carrying Value[(2)] | NOI for the year ended December 31, 2021[(3)] |
|---|---|---|---|
| Net leased real estate | 9 | $ 673,707 | $ 38,191 |
| Other real estate | 3 | 199,003 | 17,151 |
| **Total/Weighted average net leased and other real estate** | 12 | $ 872,710 | $ 55,342 |

(1) Count represents the number of investments.
(2) Represents carrying values at our share as of December 31, 2021; includes real estate tangible assets, deferred leasing costs and other intangible assets less intangible liabilities.
(3) Please refer to “Non-GAAP Supplemental Financial Measures” for further information on NOI. Excludes $1.6 million that relates to properties that were sold during 2021.

The following table provides asset-level detail of our net leased and other real estate as of December 31, 2021:

| | Collateral type | City, State | Number of Properties | Rentable square feet (“RSF”) / units/keys[(1)] | Weighted average % leased[(2)] | Weighted average lease term (yrs)[(3)] |
|---|---|---|---|---|---|---|
| **Net leased real estate** | | | | | | |
| Net lease 1 | Office | Stavenger, Norway | 1 | 1,290,926 RSF | 100% | 9.0 |
| Net lease 2 | Industrial | Various - U.S. | 2 | 2,787,343 RSF | 100% | 16.6 |
| Net lease 3 | Office | Aurora, CO | 1 | 183,529 RSF | 100% | 0.9 |
| Net lease 4 | Office | Indianapolis, IN | 1 | 338,000 RSF | 100% | 9.0 |
| Net lease 5 | Retail | Various - U.S. | 7 | 319,600 RSF | 100% | 2.4 |
| Net lease 6 | Office | Rockaway, NJ | 1 | 121,038 RSF | 100% | 1.1 |
| Net lease 7 | Retail | Keene, NH | 1 | 45,471 RSF | 100% | 7.1 |
| Net lease 8 | Retail | Fort Wayne, IN | 1 | 50,000 RSF | 100% | 2.7 |
| Net lease 9 | Retail | South Portland, ME | 1 | 52,900 RSF | 100% | 10.1 |
| **Total/Weighted average net leased real estate** | | | 16 | 5,188,807 RSF | 100% | 11.1 |
| **Other real estate** | | | | | | |
| Other real estate 1 | Office | Creve Coeur, MO | 7 | 847,604 RSF | 87% | 3.5 |
| Other real estate 2 | Office | Warrendale, PA | 5 | 496,414 RSF | 82% | 3.9 |
| Other real estate 3 | Hotel | Coraopolis, PA | 1 | 318 Keys | n/a | — |
| **Total/Weighted average other real estate** | | | 13 | n/a | 85% | 3.7 |
| **Total/Weighted average net leased and other real estate** | | | 29 | | | |

(1) Rentable square feet based on carry value at our share as of December 31, 2021.
(2) Represents the percent leased as of December 31, 2021. Weighted average calculation based on carrying value at our share as of December 31, 2021.
(3) Based on in-place leases (defined as occupied and paying leases) as of December 31, 2021 and assumes that no renewal options are exercised. Weighted average calculation based on carrying value at our share as of December 31, 2021.

## ***Asset Specific Summaries: Net Leased and Other Real Estate***

*Stavenger, Norway Office Net Lease*

| | Collateral type | City, State | Number of Properties | Rentable square feet (“RSF”) / units/keys | Weighted average % leased | Weighted average lease term (yrs) |
|---|---|---|---|---|---|---|
| Net lease 1 | Office | Stavenger, Norway | 1 | 1,290,926 RSF | 100% | 9.0 |

In July 2018, we acquired a class A office campus in Stavenger, Norway (the “Norway Net Lease”) for $320 million. This property is 100% occupied by a single tenant that is rated investment grade AA-/Aa2 from S&P and Moody’s, respectively. The property serves as their global headquarters. The Norway Net Lease requires the tenant to pay for all real estate related expenses, including operational expenditures, capital expenditures and municipality taxes. The Norway Net Lease has a weighted average remaining lease term of 9 years and the tenant has the option to extend for two 5-year periods at the same terms with rent adjusted to market rent. The Norway Net Lease also has annual rent increases based on the Norwegian CPI Index. Our tenant has injected a significant amount of capital into improvements of the property over the past 10 years. Financing on the Norway Net Lease consists of a mortgage payable of $181.5 million with a fixed rate of 3.9%, which matures in June 2025. The tenant has made all rent payments and is current on all its financial obligations under the lease. Both the lease payments and mortgage debt service are NOK denominated currency. During the second quarter of 2021, we entered into a series of USD-NOK forward swaps for the total notional amount of 274 million NOK in order to minimize our foreign currency cash flow risk. These quarterly forward swaps are over the next three years through May 2024, where we have agreed to sell NOK and buy USD at a locked in forward curve rate.

*Warehouse Distribution Portfolio Net Lease*

| | Collateral type | City, State | Number of Properties | Rentable square feet ("RSF") / units/keys | Weighted average % leased | Weighted average lease term (yrs) |
|---|---|---|---|---|---|---|
| Net lease 2 | Industrial | Various - U.S. | 2 | 2,787,343 RSF | 100% | 16.6 |

In August 2018 we acquired two warehouse distribution facilities located in Tracy, California and Tolleson, Arizona (the "Warehouse Distribution Portfolio") for $292 million. These two properties are 100% occupied by a single tenant that is rated investment grade Ba1 from Moody's. The tenant is a national grocer and these properties form a part of its national distribution network. The Warehouse Distribution Portfolio lease (the "Warehouse Distribution Portfolio Lease") requires the tenant to pay for all real estate related expenses, including operational expenditures, capital expenditures and taxes. The tenant has invested a significant amount of capital expenditures into each property over the past few years and has plans for additional capital expenditures in 2022. The Warehouse Distribution Portfolio Lease has a remaining lease term of 16.6 years ending in 2038. The tenant has the option to extend the lease for nine 5-year periods at the same terms with rent adjusted to market rent. The Warehouse Distribution Portfolio Lease also has annual rent increases of 1.5%. Financing on the Warehouse Distribution Portfolio consists of mortgage and mezzanine debt for a total combined amount payable of $200 million. The debt is interest only at a blended fixed rate of 4.8% and matures in September 2028. The debt has a defeasance provision for any early loan prepayment. The tenant has made all rent payments and is current on all its financial obligations under the Warehouse Distribution Portfolio Lease.

The Warehouse Distribution Portfolio has generated a net operating income for the year ended December 31, 2021 of $18.1 million; and the asset value on our consolidated balance sheet is $262.6 million as of December 31, 2021. During the second quarter of 2020, we completed an asset level preferred financing on five assets which included the Warehouse Distribution Portfolio resulting in a reduction of our at-share ownership in the Warehouse Distribution Portfolio, which was approximately 29% at September 30, 2021. During the fourth quarter of 2021 we repaid the 5-Investment Preferred Financing and repurchased the remaining interest in the investment. Refer to "Liquidity and Capital Resources" section for further discussion regarding the payoff of the "*5-Investment Preferred Financing.*"

***CRE Debt Securities***

The following table presents an overview of our CRE debt securities as of December 31, 2021 (dollars in thousands):

| | | | Weighted Average[(1)] | | | |
|---|---|---|---|---|---|---|
| **CRE Debt Securities by ratings category** | **Number of Securities** | **Book value** | **Cash coupon** | **Unlevered all-in yield** | **Remaining term** | **Ratings** |
| "B-pieces" of CMBS securitization pools | 4 | $ 36,154 | 2.8 % | 12.9 % | 5.4 | — |
| **Total/Weighted Average** | 4 | $ 36,154 | 2.8 % | 12.9 % | 5.4 | — |

(1) Weighted average metrics weighted by book value, except for cash coupon which is weighted by principal balance.

During the year ended December 31, 2021 we recorded a realized loss of $17.1 million related to the sale of two underlying loans held within our retained investments in the subordinate tranches of a securitization trust, and we sold two CRE securities for $10.2 million in gross proceeds and recognized a gain of $1.2 million.

## Results of Operations

The following table summarizes our portfolio results of operations for the years ended December 31, 2021, 2020 and 2019 (dollars in thousands):

| | Year Ended December 31, | | | Change | |
|---|---|---|---|---|---|
| | 2021 | 2020 | 2019 | 2021 compared to 2020 | 2020 compared to 2019 |
| **Net interest income** | | | | | |
| Interest income | $ 168,845 | $ 156,851 | $ 175,169 | $ 11,994 | $ (18,318) |
| Interest expense | (55,484) | (63,043) | (87,730) | 7,559 | 24,687 |
| Interest income on mortgage loans held in securitization trusts | 51,609 | 92,461 | 120,203 | (40,852) | (27,742) |
| Interest expense on mortgage obligations issued by securitization trusts | (45,460) | (83,952) | (109,964) | 38,492 | 26,012 |
| Net interest income | 119,510 | 102,317 | 97,678 | 17,193 | 4,639 |
| **Property and other income** | | | | | |
| Property operating income | 102,634 | 175,037 | 253,955 | (72,403) | (78,918) |
| Other income | 2,333 | 1,836 | 2,333 | 497 | (497) |
| Total property and other income | 104,967 | 176,873 | 256,288 | (71,906) | (79,415) |
| **Expenses** | | | | | |
| Management fee expense | 9,596 | 29,739 | 42,390 | (20,143) | (12,651) |
| Property operating expense | 30,286 | 64,987 | 112,801 | (34,701) | (47,814) |
| Transaction, investment and servicing expense | 4,556 | 9,975 | 7,191 | (5,419) | 2,784 |
| Interest expense on real estate | 32,278 | 48,860 | 55,415 | (16,582) | (6,555) |
| Depreciation and amortization | 36,399 | 59,766 | 103,220 | (23,367) | (43,454) |
| Provision for (reversal of) loan losses, net | (1,432) | 78,561 | 220,572 | (79,993) | (142,011) |
| Impairment of operating real estate | — | 42,814 | 282,749 | (42,814) | (239,935) |
| Administrative expense | 50,011 | 26,551 | 31,936 | 23,460 | (5,385) |
| Restructuring charges | 109,321 | — | — | 109,321 | n.m. |
| Total expenses | 271,015 | 361,253 | 856,274 | (90,238) | (495,021) |
| **Other income (loss)** | | | | | |
| Unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net | 41,904 | (50,521) | 4,090 | 92,425 | (54,611) |
| Realized gain (loss) on mortgage loans and obligations held in securitization trusts, net | (36,623) | — | 2,772 | (36,623) | (2,772) |
| Other gain (loss), net | 74,067 | (118,725) | (972) | 192,792 | (117,753) |
| **Income (loss) before equity in earnings of unconsolidated ventures and income taxes** | 32,810 | (251,309) | (496,418) | 284,119 | 245,109 |
| Equity in earnings (loss) of unconsolidated ventures | (131,115) | (135,173) | 36,942 | 4,058 | (172,115) |
| Income tax benefit (expense) | (6,276) | 10,898 | (3,172) | (17,174) | 14,070 |
| **Net loss** | $ (104,581) | $ (375,584) | $ (462,648) | $ 271,003 | $ 87,064 |

## Comparison of Year Ended December 31, 2021 and Year Ended December 31, 2020

### *Net Interest Income*

*Interest income*

Interest income increased by $12.0 million to $168.8 million for the year ended December 31, 2021 as compared to the year ended December 31, 2020. The increase was primarily due to $41.3 million related to loan originations, which was offset by $32.9 million related to loan payoffs and CMBS sales.

*Interest expense*

Interest expense decreased by $7.6 million to $55.5 million for the year ended December 31, 2021 as compared to the year ended December 31, 2020. The decrease was primarily due to $15.3 million related to paydowns on our Bank Credit Facility, Master Repurchase Facilities and CMBS Credit Facilities and $5.2 million from amortization of deferred financing costs. This was partially offset by $7.5 million relating to financings on new loans and $5.9 million related to BRSP 2021-FL1.

*Net interest income on mortgage loans and obligations held in securitization trusts, net*

Net interest income on mortgage loans and obligations held in securitization trusts, net decreased by $2.4 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020. The decrease was primarily due to the sale of the retained interest of a securitization trust during the second quarter of 2021.

***Property and other income***

*Property operating income*

Property operating income decreased by $72.4 million to $102.6 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020. The decrease was primarily due to real estate properties sold throughout 2020 and 2021.

*Other income*

Other income of $2.3 million was recorded for the year ended December 31, 2021. This was primarily due to a one-time reimbursement received on a previously resolved transaction.

***Expenses***

*Management fee expense*

Management fee expense decreased by $20.1 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020 due to the termination of the Management Agreement in April 2021.

*Property operating expense*

Property operating expense decreased by $34.7 million to $30.3 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020. The decrease was primarily due to real estate properties sold throughout 2020 and 2021.

*Transaction, investment and servicing expense*

Transaction, investment and servicing expense decreased by $5.4 million to $4.6 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020, primarily due to higher legal costs of $2.4 million associated with exploring strategic options of the Company in the first quarter of 2020 and legal costs of $1.5 million incurred in 2020 relating to resolved investments.

*Interest expense on real estate*

Interest expense on real estate decreased by $16.6 million to $32.3 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020. The decrease was primarily due to real estate properties sold throughout 2020 and the sale of an industrial portfolio during the first quarter of 2021.

*Depreciation and amortization*

Depreciation and amortization expense decreased by $23.4 million to $36.4 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020. The decrease was primarily due to real estate properties sold throughout 2020 and 2021.

*Provision for (reversal of) loan losses, net*

During the year ended December 31, 2021, we recorded a reversal of loan losses of $1.4 million which primarily relates to net changes in our CECL reserves in accordance with ASU No. 2016-13, *Financial Instruments-Credit Losses.*

*Impairment of operating real estate*

Impairment of operating real estate was $42.8 million for the year ended December 31, 2020. The impairment resulted from a reduction in the estimated holding period of certain properties sold during the period. There was no impairment of operating real estate for the year ended December 31, 2021.

*Administrative expense*

Administrative expense increased by $23.5 million to $50.0 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020. This increase was primarily due to $15.0 million of compensation and benefits following the internalization of management operations on April 30, 2021 and higher stock compensation expense of $9.6 million during the year ended December 31, 2021.

*Restructuring charges*

During the year ended December 31, 2021, we recorded $109.3 million in restructuring costs related to the termination of our Management Agreement with our previous Manager. This consisted of a one-time cash payment of $102.3 million to our previous Manager paid on April 30, 2021 and $7.0 million in additional restructuring costs consisting primarily of fees paid for legal and investment banking advisory services.

***Other income (loss)***

*Unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net*

During the year ended December 31, 2021, we recorded a $41.9 million unrealized gain on mortgage loans and obligations held in securitization trusts, net. This was primarily due to the sale of the retained investments in the subordinate tranches of one securitization trust and the sale of two underlying loans held within one of our retained investments in the subordinate tranches of another securitization trust. Upon the sales, the accumulated unrealized losses relating to the retained investments were reversed and subsequently recorded to realized loss on mortgage loans and obligations held in securitization trusts, net. During the year ended December 31, 2020, we recorded an unrealized loss of $50.5 million on mortgage loans and obligations held in securitization trusts, net which represents the change in fair value of the assets and liabilities of the securitization trusts consolidation as a result of our investment in the subordinate tranches of the securitization trusts.

*Realized loss on mortgage loans and obligations held in securitization trusts, net*

During the year ended December 31, 2021, we recorded a $36.6 million realized loss on mortgage loans and obligations held in securitization trusts, net, primarily due to the $19.5 million realized loss upon sale of the retained investments in the subordinate tranches of one securitization trust in the second quarter of 2021. We also recorded a realized loss of $17.1 million related to the sale of two underlying loans held within one of our retained investments in the subordinate tranches of another securitization trust.

*Other gain (loss), net*

During the year ended December 31, 2021, we recorded other gain, net of $74.1 million primarily due to the $52.9 million realized gain on the Co-Invest Portfolio Sale in the fourth quarter of 2021 and a realized gain of $11.8 million on the sale of an industrial portfolio in the first quarter of 2021. During the year ended December 31, 2020, we recorded other loss, net of $118.7 million primarily due to a $99.0 million realized net loss on the sale of 41 CRE securities and the realization of the fair value marks on our remaining CRE securities portfolio. Additionally, a $38.0 million provision for loan loss was recorded on one hospitality loan during 2020. This was partially offset by a realized gain of $9.3 million on the sale of an industrial portfolio during 2020.

***Equity in earnings (loss) of unconsolidated ventures***

Equity in earnings (loss) of unconsolidated ventures was $131.1 million and $135.2 million for the year ended December 31, 2021 and the year ended December 31, 2020, respectively. During the year ended December 31, 2021 the $131.1 million loss was comprised of our proportionate share of a $97.9 million fair value loss adjustment on the Los Angeles, California Mixed-Use Project and our proportionate share of $35.5 million in fair value loss adjustments related to three co-investments included in the Co-Investment Portfolio Sale. See “Our Portfolio” section for further details. For the year ended December 31, 2020, the $135.2 million loss was primarily due to recording our proportionate share of $162.0 million in fair value losses relating to three co-investments, partially offset by $8.4 million related to the sale and repayment of equity method investments.

***Income tax benefit (expense)***

Income tax benefit (expense) increased by $17.2 million to an expense of $6.3 million for the year ended December 31, 2021, as compared to the year ended December 31, 2020. This was primarily due to a $11.3 million reduction in the one-time prior year benefit from a tax capital loss carryback on private equity investments and a $6.1 million increase in current year income tax expense related to the sale of a hotel investment in Austin, TX.

**Comparison of Year Ended December 31, 2020 and Year Ended December 31, 2019**

***Net Interest Income***

*Interest income*

Interest income decreased by $18.3 million to $156.9 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. The decrease was primarily due to $54.5 million related to the repayment of loan investments and a decrease of $13.6 million related to the sale of CRE securities. This was partially offset by an increase of $52.0 million related to loan originations.

*Interest expense*

Interest expense decreased by $24.7 million to $63.0 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. The decrease was primarily due to a $17.8 million reduction from the collapse of a securitization trust and repayment of loan investments and a $2.5 million decrease due to a lower borrowing base on our Bank Credit Facility.

*Net interest income on mortgage loans and obligations held in securitization trusts, net*

Net interest income on mortgage loans and obligations held in securitization trusts, net decreased by $1.7 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019, primarily due to the sale and deconsolidation of a retained investment in the subordinate tranches of one securitization trust in the third quarter of 2019.

***Property and other income***

*Property operating income*

Property operating income decreased by $78.9 million to $175.0 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. The decrease was primarily due to real estate properties sold throughout 2019 and 2020.

*Other income*

Other income decreased by $0.5 million to $1.8 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019 primarily as a result of lower realized gains on derivatives of $0.3 million in 2020 related to an office building, a decrease of $0.4 million due to income in 2019 related to debt facility true ups not applicable to 2020 partially offset by $0.2 million in tax refunds received during 2020.

***Expenses***

*Management fee expense*

Management fee expense decreased by $12.7 million to $29.7 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. The decrease is due to the reduction in stockholders’ equity (as defined in the Management Agreement) as of December 31, 2020 compared to December 31, 2019. The reduction in stockholders’ equity is primarily due to a fourth quarter 2019 amendment to our definition of core earnings in the Management Agreement.

*Property operating expense*

Property operating expense decreased by $47.8 million to $65.0 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. The decrease was primarily due to real estate properties sold throughout 2019 and 2020.

*Transaction, investment and servicing expense*

Transaction, investment and servicing expense increased by $2.8 million to $10.0 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019, primarily due to a $1.7 million decrease in franchise tax refunds received and a $1.5 million increase in legal costs incurred associated with exploring the internalization of the management of the Company.

*Interest expense on real estate*

Interest expense on real estate decreased by $6.6 million to $48.9 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. The decrease is due to the sale of real estate properties throughout 2020.

*Depreciation and amortization*

Depreciation and amortization expense decreased by $43.5 million to $59.8 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. The decrease was primarily due to real estate properties sold throughout 2019 and 2020.

*Provision for loan losses*

During the year ended December 31, 2020, we recorded a provision for loan losses of $78.6 million related to $57.3 million in specific loan impairments and $15.3 million in CECL reserves in accordance with ASU No. 2016-13, *Financial Instruments-Credit Losses.*

*Impairment of operating real estate*

During the year ended December 31, 2020, we recorded impairment of operating real estate of $42.8 million which primarily relates to the feedback received when marketing various operating real estate properties for sale. During the year ended December 31, 2019, we recorded impairment of operating real estate of $282.7 million which primarily relates to the reduction in the estimated holding period of various operating real estate properties.

*Administrative expense*

Administrative expense decreased by $5.4 million to $26.6 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. This decrease was primarily due to lower stock compensation expense and lower indirect costs which are reimbursable to our former Manager.

***Other income (loss)***

*Unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net*

During the years ended December 31, 2020 and December 31, 2019, we recorded an unrealized loss of $50.5 million and unrealized gain of $4.1 million, respectively, on mortgage loans and obligations held in securitization trusts, net which represents the change in fair value of the assets and liabilities of the securitization trusts consolidated as a result of our investment in the subordinate tranches of these securitization trusts.

*Realized gain (loss) on mortgage loans and obligations held in securitization trusts, net*

During the year ended December 31, 2019, we recorded a realized gain on mortgage loans and obligations held in securitizations trusts, net due to the sale and deconsolidation of a retained investment in the subordinate tranches of one securitization trust in the third quarter of 2019.

*Other gain (loss), net*

During the year ended December 31, 2020, we recorded other loss, net of $118.7 million, primarily due to a $99.0 million realized net loss on the sale of 41 CRE securities and the realization of the fair value marks on our remaining CRE securities portfolio. Additionally, a $38.0 million provision for loan loss was recorded on one hospitality loan during 2020. This was partially offset by a realized gain of $9.3 million on the sale of an industrial portfolio during 2020.

***Equity in earnings (losses) of unconsolidated ventures***

Equity in earnings of unconsolidated ventures decreased by $172.1 million to a loss of $135.2 million for the year ended December 31, 2020, as compared to the year ended December 31, 2019. This was primarily due to $162.0 million in fair value losses relating to three equity method investments that were placed on nonaccrual status in 2020, partially offset by $8.4 million related to the sale and repayment of equity method investments.

***Income tax benefit (expense)***

Income tax expense decreased by $14.1 million to a benefit for the year ended December 31, 2020, as compared to the year ended December 31, 2019, primarily due to the Company finalizing its 2019 federal tax return and determining it would be able to carryback certain tax capital losses to prior years resulting in a refund of $11.3 million.

**Book Value Per Share**

The following table calculates our GAAP book value per share ($ in thousands, except per share data):

| | December 31, 2021 | | December 31, 2020 | |
|---|---|---|---|---|
| Stockholders' Equity excluding noncontrolling interests in investment entities | $ | 1,489,843 | $ | 1,705,453 |
| Shares | | | | |
| Class A common stock | | 129,770 | | 128,566 |
| OP units | | 3,075 | | 3,075 |
| Total outstanding | | 132,845 | | 131,641 |
| GAAP book value per share | $ | 11.22 | $ | 12.96 |
| Accumulated depreciation and amortization per share | $ | 1.15 | $ | 1.18 |
| Undepreciated book value per share | $ | 12.37 | $ | 14.14 |

**Non-GAAP Supplemental Financial Measures**

*Distributable Earnings*

We present Distributable Earnings, which is a non-GAAP supplemental financial measure of our performance. We believe that Distributable Earnings provides meaningful information to consider in addition to our net income and cash flow from operating activities determined in accordance with U.S. GAAP, and this metric is a useful indicator for investors in evaluating and comparing our operating performance to our peers and our ability to pay dividends. We elected to be taxed as a REIT under the Internal Revenue Code of 1986, as amended, beginning with our taxable year ended December 31, 2018. As a REIT, we are required to distribute substantially all of our taxable income and we believe that dividends are one of the principal reasons investors invest in credit or commercial mortgage REITs such as our company. Over time, Distributable Earnings has been a useful indicator of our dividends per share and we consider that measure in determining the dividend, if any, to be paid. This supplemental financial measure also helps us to evaluate our performance excluding the effects of certain transactions and U.S. GAAP adjustments that we believe are not necessarily indicative of our current portfolio and operations. For information on the fees we paid the Manager, see Note 10, "Related Party Arrangements" to our consolidated financial statements included in Item 15. Exhibits and Financial Statement Schedules of this Form 10-K.

We define Distributable Earnings as U.S. GAAP net income (loss) attributable to our common stockholders (or, without duplication, the owners of the common equity of our direct subsidiaries, such as our OP) and excluding (i) non-cash equity compensation expense, (ii) the expenses incurred in connection with our formation or other strategic transactions, (iii) the incentive fee, (iv) acquisition costs from successful acquisitions, (v) gains or losses from sales of real estate property and impairment write-downs of depreciable real estate, including unconsolidated joint ventures and preferred equity investments, (vi) CECL reserves determined by probability of default/loss given default ("PD/LGD") model, (vii) depreciation and amortization, (viii) any unrealized gains or losses or other similar non-cash items that are included in net income for the current quarter, regardless of whether such items are included in other comprehensive income or loss, or in net income, (ix) one-time events pursuant to changes in U.S. GAAP and (x) certain material non-cash income or expense items that in the judgment of management should not be included in Distributable Earnings. For clauses (ix) and (x), such exclusions shall only be applied after approval by a majority of our independent directors. Distributable Earnings include provision for loan losses when realized. Loan losses are realized when such amounts are deemed nonrecoverable at the time the loan is repaid, or if the underlying asset is sold following foreclosure, or if we determine that it is probable that all amounts due will not be collected; realized loan losses to be included in Distributable Earnings is the difference between the cash received, or expected to be received, and the book value of the asset.

Additionally, we define Adjusted Distributable Earnings as Distributable Earnings excluding (i) realized gains and losses on asset sales, (ii) fair value adjustments or unrealized gains or losses, (iii) realized provision for loan losses and (iv) one-time gains or losses that in the judgement of management should not be included in Adjusted Distributable Earnings. We believe Adjusted Distributable Earnings is a useful indicator for investors to further evaluate and compare our operating performance to our peers and our ability to pay dividends, net of the impact of any gains or losses on assets sales or fair value adjustments, as described above.

Distributable Earnings and Adjusted Distributable Earnings do not represent net income or cash generated from operating activities and should not be considered as an alternative to U.S. GAAP net income or an indication of our cash flows from operating activities determined in accordance with U.S. GAAP, a measure of our liquidity, or an indication of funds available to fund our cash needs. In addition, our methodology for calculating Distributable Earnings and Adjusted Distributable Earnings may differ from methodologies employed by other companies to calculate the same or similar non-GAAP supplemental financial measures, and accordingly, our reported Distributable Earnings and Adjusted Distributable Earnings may not be comparable to the Distributable Earnings and Adjusted Distributable Earnings reported by other companies.

The following table presents a reconciliation of net income (loss) attributable to our common stockholders to Distributable Earnings and Adjusted Distributable Earnings attributable to our common stockholders and noncontrolling interest of the Operating Partnership (dollars and share amounts in thousands, except per share data) for the year ended December 31, 2021:

| | | Year Ended December 31, 2021 |
|---|---|---|
| Net loss attributable to BrightSpire Capital, Inc. common stockholders | $ | (101,046) |
| Adjustments: | | |
| Net loss attributable to noncontrolling interest of the Operating Partnership | | (1,803) |
| Non-cash equity compensation expense | | 14,016 |
| Transaction costs | | 109,321 |
| Depreciation and amortization | | 36,447 |
| Net unrealized loss (gain): | | |
| Other unrealized gain on investments | | (47,352) |
| CECL reserves | | (2,684) |
| Gain on sales of real estate, preferred equity and investments in unconsolidated joint ventures | | (66,827) |
| Adjustments related to noncontrolling interests | | 1,254 |
| Distributable Earnings (Loss) attributable to BrightSpire Capital, Inc. common stockholders and noncontrolling interest of the Operating Partnership | $ | (58,674) |
| Adjustments: | | |
| Fair value adjustments | | 133,200 |
| Realized loss on CRE debt securities and B-pieces | | 38,842 |
| Specific loan reserves | | 1,251 |
| Realized loss on hedges | | 1,466 |
| Adjusted Distributable Earnings attributable to BrightSpire Capital, Inc. common stockholders and noncontrolling interest of the Operating Partnership | $ | 116,085 |
| Distributable Earnings (Loss) per share[(1)] | $ | (0.44) |
| Adjusted Distributable Earnings per share[(1)] | $ | 0.87 |
| Weighted average number of common shares and OP units[(1)] | | 132,807 |

(1) We calculate Distributable Earnings (Loss) per share, and Adjusted Distributable Earnings per share, non-GAAP financial measures, based on a weighted-average number of common shares and OP units (held by members other than us or our subsidiaries). For the year ended December 31, 2021, weighted average number of common shares includes 3.1 million OP units.

*NOI*

We believe NOI to be a useful measure of operating performance of our net leased and other real estate portfolios as they are more closely linked to the direct results of operations at the property level. NOI excludes historical cost depreciation and amortization, which are based on different useful life estimates depending on the age of the properties, as well as adjustments for the effects of real estate impairment and gains or losses on sales of depreciated properties, which eliminate differences arising from investment and disposition decisions. Additionally, by excluding corporate level expenses or benefits such as interest expense, any gain or loss on early extinguishment of debt and income taxes, which are incurred by the parent entity and are not directly linked to the operating performance of the Company's properties, NOI provides a measure of operating performance independent of the Company's capital structure and indebtedness. However, the exclusion of these items as well as others, such as capital expenditures and leasing costs, which are necessary to maintain the operating performance of the Company's properties, and transaction costs and administrative costs, may limit the usefulness of NOI. NOI may fail to capture significant trends in these components of U.S. GAAP net income (loss) which further limits its usefulness.

NOI should not be considered as an alternative to net income (loss), determined in accordance with U.S. GAAP, as an indicator of operating performance. In addition, our methodology for calculating NOI involves subjective judgment and discretion and may differ from the methodologies used by other companies, when calculating the same or similar supplemental financial measures and may not be comparable with other companies.

The following tables present a reconciliation of net income (loss) on our net leased and other real estate portfolios attributable to our common stockholders to NOI attributable to our common stockholders (dollars in thousands) for the year ended December 31, 2021:

| | | Year Ended December 31, 2021 |
|---|---|---|
| et income (loss) attributable to BrightSpire Capital, Inc. common stockholders[(1)] | $ | 8,519 |
| ljustments: | | |
| et income (loss) attributable to noncontrolling interests in investment entities | | (79) |
| nortization of above- and below-market lease intangibles | | (97) |
| terest income | | 18 |
| terest expense on real estate | | 32,278 |
| her income | | (3) |
| ansaction, investment and servicing expense | | (35) |
| epreciation and amortization | | 36,162 |
| lministrative expense | | 233 |
| her gain on investments, net | | (4,691) |
| come tax benefit / expense | | (68) |
| OI attributable to noncontrolling interest in investment entities | | (15,323) |
| al NOI, at share | $ | 56,914 |

(1) Net income (loss) attributable to BrightSpire Capital, Inc. common stockholders excludes $109.5 million of net loss attributable to non-net leased and other real estate investments for the year ended December 31, 2021. The total net loss attributable to BrightSpire Capital, Inc.'s common stockholders was $101.0 million for the year ended December 31, 2021.

## Liquidity and Capital Resources

### *Overview*

Our material cash commitments include commitments to repay borrowings, finance our assets and operations, meet future funding obligations, make distributions to our stockholders and fund other general business needs. We use significant cash to make investments, meet commitments to existing investments, repay the principal of and interest on our borrowings and pay other financing costs, make distributions to our stockholders and fund our operations.

Our primary sources of liquidity include cash on hand, cash generated from our operating activities and cash generated from asset sales and investment maturities. However, subject to maintaining our qualification as a REIT and our Investment Company Act exclusion, we may use several sources to finance our business, including bank credit facilities (including term loans and revolving facilities), master repurchase facilities and securitizations, as described below. In addition to our current sources of liquidity, there may be opportunities from time to time to access liquidity through public offerings of debt and equity securities. We have sufficient sources of liquidity to meet our material cash commitments for the next 12 months and beyond.

### *Financing Strategy*

We have a multi-pronged financing strategy that included an up to $300 million secured revolving credit facility as of December 31, 2021, up to approximately $2.1 billion in secured revolving repurchase facilities, $1.5 billion in non-recourse securitization financing, $695 million in commercial mortgages and $65 million in other asset-level financing structures (refer to "Bank Credit Facility" section below for further discussion). In addition, we may use other forms of financing, including additional warehouse facilities, public and private secured and unsecured debt issuances and equity or equity-related securities issuances by us or our subsidiaries. We may also finance a portion of our investments through the syndication of one or more interests in a whole loan. We will seek to match the nature and duration of the financing with the underlying asset's cash flow, including using hedges, as appropriate.

*Debt-to-Equity Ratio*

The following table presents our debt-to-equity ratio:

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| Debt-to-equity ratio[(1)] | 2.0x | 1.0x |

(1) Represents (i) total outstanding secured debt less cash and cash equivalents of $259.7 million and $474.8 million at December 31, 2021 and December 31, 2020, respectively to (ii) total equity, in each case, at period end.

***Potential Sources of Liquidity***

The COVID-19 pandemic has had a significant impact on our business, and we have taken actions since its onset to protect our liquidity. However, there is still uncertainty regarding the pandemic's impact on the financial condition of our borrowers and their ability to make their monthly mortgage payments and remain in compliance with loan covenants and terms. The failure of our borrowers to meet their loan obligations may trigger repayments under our Bank Credit Facility and Master Repurchase Facilities.

Additionally, if our operating real estate lessees are unable to make monthly rent payments, we would be unable to make our monthly mortgage payments which could result in defaults under these obligations or trigger repayments under our Bank Credit Facility. If these events were to occur, we may not have sufficient available cash to repay amounts due.

Our primary sources of liquidity include borrowings available under our credit facilities, master repurchase facilities and CMBS facilities and monthly mortgage payments.

*Bank Credit Facilities*

We use bank credit facilities (including term loans and revolving facilities) to finance our business. These financings may be collateralized or non-collateralized and may involve one or more lenders. Credit facilities typically have maturities ranging from two to five years and may accrue interest at either fixed or floating rates.

On February 1, 2018, the OP (together with certain subsidiaries of the OP from time to time party thereto as borrowers, collectively, the "Borrowers") entered into a credit agreement (the "Bank Credit Facility") with JPMorgan Chase Bank, N.A., as administrative agent, and the several lenders from time to time party thereto (the "Lenders"), pursuant to which the Lenders agreed to provide a revolving credit facility.

On April 5, 2021, we entered into a fourth amendment to the Bank Credit Facility to: (i) permit the OP to consummate the Internalization; (ii) reduce the minimum tangible net worth covenant requirement from $1.5 billion to $1.35 billion upon consummation of the Internalization; (iii) increase our ability to make restricted payments including additional dividends and stock buybacks and the removal all material restrictions on new investments, in each case, so long as no default exists and the OP is in compliance with the financial covenants; (iv) increase the maximum amount available for borrowing from 90% to 100% of borrowing base value; and (v) reduce the aggregate amount of lender commitments from $450 million to $300 million.

On January 28, 2022, we, through our subsidiaries, including the OP, entered into the Credit Agreement, pursuant to which the Lenders agreed to provide a revolving credit facility to reduce availability to an aggregate principal amount of up to $165 million, of which up to $25 million is available as letters of credit. The Credit Agreement also includes an option for us to increase the maximum available principal amount up to $300.0 million, subject to one or more new or existing lenders agreeing to provide such additional loan commitments and satisfaction of other customary conditions.

Advances under the Credit Agreement accrue interest at a per annum rate equal to, at the applicable Borrower's election, either a SOFR rate plus a margin of 2.25% and applicable credit spread adjustment, or a base rate determined according to a prime rate or federal funds rate plus a margin of 1.25%. An unused commitment fee at a rate of 0.25% or 0.35%, per annum, depending on the amount of facility utilization, applies to un-utilized borrowing capacity under the Credit Agreement. Amounts owing under the Credit Agreement may be prepaid at any time without premium or penalty, subject to customary breakage costs in the case of borrowings with respect to which a SOFR rate election is in effect.

The maximum amount available for borrowing at any time under the Credit Agreement is limited to a borrowing base valuation of certain investment assets, with the valuation of such investment assets generally determined according to a percentage of adjusted net book value. As of the date hereof, the borrowing base valuation is sufficient to permit borrowings of up to the entire $165.0 million commitment. The ability to borrow new amounts under the Credit Agreement terminates on January 31, 2026, at which time our OP may, at its election and by written notice to the administrative agent, extend the termination date for two additional terms of six months each, subject to the terms and conditions in the Credit Agreement, resulting in a latest termination date of January 31, 2027.

The obligations of the Borrowers under the Credit Agreement are guaranteed pursuant to a Guarantee and Collateral Agreement with certain subsidiaries of our OP in favor of JPMorgan Chase Bank, N.A. (the “Guarantee and Collateral Agreement”) by substantially all material wholly owned subsidiaries of our OP and, subject to certain exceptions, secured by a pledge of substantially all equity interests owned by the Borrowers and the guarantors, as well as by a security interest in deposit accounts of the Borrowers and the Guarantors (as such terms are defined in the Guarantee and Collateral Agreement) in which the proceeds of investment asset distributions are maintained.

The Credit Agreement contains various affirmative and negative covenants, including, among other things, the obligation of the us to maintain REIT status and be listed on the New York Stock Exchange, and limitations on debt, liens and restricted payments. In addition, the Credit Agreement includes the following financial covenants applicable to our OP and our consolidated subsidiaries: (a) minimum consolidated tangible net worth of our OP greater than or equal to the sum of (i) $1,112,000,000 and (ii) 70% of the net cash proceeds received by our OP from any offering of our common equity after September 30, 2021 and of the net cash proceeds from any offering by us of our common equity to the extent such proceeds are contributed to our OP, excluding any such proceeds that are contributed to our OP within ninety days of receipt and applied to acquire capital stock of our OP; (b) our OP’s EBITDA plus lease expenses to fixed charges for any period of four consecutive fiscal quarters not less than 1.50 to 1.00; (c) our OP’s minimum interest coverage ratio not less than 3.00 to 1.00; and (d) our OP’s ratio of consolidated total debt to consolidated total assets must not exceed 0.80 to 1.00. The Credit Agreement also includes customary events of default, including, among other things, failure to make payments when due, breach of covenants or representations, cross default to material indebtedness or material judgment defaults, bankruptcy matters involving any Borrower or any Guarantor and certain change of control events. The occurrence of an event of default will limit the ability of our OP and its subsidiaries to make distributions and may result in the termination of the credit facility, acceleration of repayment obligations and the exercise of remedies by the Lenders with respect to the collateral.

*Master Repurchase Facilities and CMBS Credit Facilities*

Currently, our primary source of financing is our Master Repurchase Facilities, which we use to finance the origination of senior loans, and CMBS Credit Facilities, which we use to finance the purchase of securities. Repurchase agreements effectively allow us to borrow against loans, participations and securities that we own in an amount generally equal to (i) the market value of such loans, participations and/or securities multiplied by (ii) the applicable advance rate. Under these agreements, we sell our loans, participations and securities to a counterparty and agree to repurchase the same loans and securities from the counterparty at a price equal to the original sales price plus an interest factor. During the term of a repurchase agreement, we receive the principal and interest on the related loans, participations and securities and pay interest to the lender under the master repurchase agreement. We intend to maintain formal relationships with multiple counterparties to obtain master repurchase financing of favorable terms.

During the first quarter of 2021, we entered into an amendment under our Master Repurchase Facility with Bank 3 and Bank 7 to extend the maturity date by two years and three years, respectively.

During the second quarter of 2021, we entered into an amendment under our Master Repurchase Facility with Bank 1, Bank 8 and Bank 9 to extend the maturity date by three years, two years and two and a half years, respectively.

During the second quarter of 2021, we entered into amendments under our six Master Repurchase Facilities to: (i) permit the guarantor to consummate the Internalization; and (ii) reduce the minimum tangible net worth covenant requirement from $1.5 billion to $1.35 billion upon consummation of the Internalization.

In October 2021, upon reaching the maturity date of Bank 2 Facility 3, we elected not to exercise the extension option and therefore terminated the facility.

Subsequent to December 31, 2021, we entered into amendments under our five remaining Master Repurchase Facilities to reduce the minimum tangible net worth covenant requirement from $1.35 billion to $1.11 billion.

Additionally, subsequent to December 31, 2021, we entered into amendments under four of our Master Repurchase Facilities to expand the eligibility criteria to allow for loans indexed to SOFR, and to allow for borrowings under those facilities to also be indexed to SOFR.

As of December 31, 2021 we had entered into eight master repurchase agreements (collectively the “CMBS Credit Facilities”) to finance CMBS investments. The CMBS Credit Facilities are on a recourse basis and contain representations, warranties, covenants, conditions precedent to funding, events of default and indemnities that are customary for agreements of this type. The CMBS Credit Facilities were undrawn as of December 31, 2021.

The following table presents a summary of our Master Repurchase and Bank Credit Facilities as of December 31, 2021 (dollars in thousands):

| | Maximum Facility Size | Current Borrowings | Weighted Average Final Maturity (Years) | Weighted Average Interest Rate |
|---|---|---|---|---|
| **Master Repurchase Facilities** | | | | |
| Bank 1 | $ 400,000 | $ 109,915 | 4.3 | LIBOR + 1.91% |
| Bank 3 | 600,000 | 157,409 | 1.2 | LIBOR + 1.81% |
| Bank 7 | 500,000 | 358,181 | 3.3 | LIBOR + 1.77% |
| Bank 8 | 250,000 | 177,519 | 1.4 | LIBOR + 1.98% |
| Bank 9 | 300,000 | 102,098 | 4.3 | LIBOR + 1.87% |
| **Total Master Repurchase Facilities** | 2,050,000 | 905,122 | | |
| | | | | |
| **Bank Credit Facility** | 300,000 | — | 1.1 | LIBOR + 2.25% |
| | | | | |
| **Total Facilities** | $ 2,350,000 | $ 905,122 | | |

*Securitizations*

We may seek to utilize non-recourse long-term securitizations of our investments in mortgage loans, especially loan originations, to the extent consistent with the maintenance of our REIT qualification and exclusion from the Investment Company Act in order to generate cash for funding new investments. This would involve conveying a pool of assets to a special purpose vehicle (or the issuing entity), which would issue one or more classes of non-recourse notes pursuant to the terms of an indenture. The notes would be secured by the pool of assets. In exchange for the transfer of assets to the issuing entity, we would receive the cash proceeds on the sale of non-recourse notes and a 100% interest in the equity of the issuing entity. The securitization of our portfolio investments might magnify our exposure to losses on those portfolio investments because any equity interest we retain in the issuing entity would be subordinate to the notes issued to investors and we would, therefore, absorb all of the losses sustained with respect to a securitized pool of assets before the owners of the notes experience any losses.

In October 2019, we executed a securitization transaction through our subsidiaries, CLNC 2019-FL1, Ltd. and CLNC 2019-FL1, LLC, which resulted in the sale of $840.4 million of investment grade notes. The securitization reflects an advance rate of 83.5% at a weighted average cost of funds of SOFR plus 1.59% (before transaction expenses) and is collateralized by a pool of 26 senior loan investments.

On March 5, 2021, the Financial Conduct Authority of the U.K. (the “FCA”) announced that LIBOR tenors relevant to CLNC 2019-FL1 would cease to be published or no longer be representative after June 30, 2023. The Alternative Reference Rates Committee (the “ARRC”) interpreted this announcement to constitute a benchmark transition event. As of June 17, 2021, the benchmark index interest rate was converted from LIBOR to SOFR, plus a benchmark adjustment of 11.448 basis points with a lookback period equal to the number of calendar days in the applicable Interest Accrual Period plus two SOFR business days, conforming with the indenture agreement and recommendations from the ARRC. Compounded SOFR for any interest accrual period shall be the “30-Day Average SOFR” as published by the Federal Reserve Bank of New York on each benchmark determination date.

As of December 31, 2021, the CLNC 2019-FL1 mortgage assets are indexed to LIBOR and the borrowings under CLNC 2019-FL are indexed to compounded SOFR, creating an underlying benchmark index rate basis difference between CLNC 2019-FL1 assets and liabilities, which is meant to be mitigated by the benchmark replacement adjustment described above. We have the right to transition the CLNC 2019-FL1 mortgage assets to SOFR, eliminating the basis difference between CLNC 2019-FL1 assets and liabilities, and will make the determination taking into account the loan portfolio as a whole. The transition to SOFR is not expected to have a material impact to CLNC 2019-FL1’s assets and liabilities and related interest expense.

CLNC 2019-FL1 includes a two-year reinvestment feature that allows us to contribute existing or newly originated loan investments in exchange for proceeds from repayments or repurchases of loans held in CLNC 2019-FL1, subject to the satisfaction of certain conditions set forth in the indenture. In addition to existing eligible loans available for reinvestment, the continued origination of securitization eligible loans is required to ensure that we reinvest the available proceeds within CLNC 2019-FL1. During the year ended December 31, 2021 and through February 18, 2022, six loans held in CLNC 2019-FL1 were repaid, totaling $249.6 million. Additionally, during the year ended December 31, 2021 two loan investments held in CLNC 2019-FL1 were removed as a result of the loans becoming a credit risk collateral interest and a defaulted collateral interest, totaling $125.0 million. We replaced the credit risk and defaulted assets by contributing existing loan investments of equal value. The reinvestment period for CLNC 2019-FL1 expired on October 19, 2021. Five of the repaid assets were replaced by contributing existing loan investments of equal value. Subsequent to December 31, 2021, one of the repayments occurred after the reinvestment period ended and the proceeds were used to amortize the securitization bonds in accordance with the securitization priority of payments.

Additionally, CLNC 2019-FL1 contains note protection tests that can be triggered as a result of contributed loan defaults, losses, and certain other events outlined in the indenture, beyond established thresholds. A note protection test failure that is not remedied can result in the redirection of interest proceeds from the below investment grade tranches to amortize the most senior outstanding tranche. While we continue to closely monitor all loan investments contributed to CLNC 2019-FL1, a deterioration in the performance of an underlying loan could negatively impact our liquidity position.

In July 2021, we executed a securitization transaction through our subsidiaries BRSP 2021-FL1 Ltd. and BRSP 2021-FL1, LLC, which resulted in the sale of $670 million of investment grade notes. The securitization reflects an advance rate of 83.75% at a weighted costs of funds of LIBOR plus 1.49% (before transaction expenses) and is collateralized by a pool of 33 senior loan investments.

BRSP 2021-FL1 includes a two-year reinvestment feature that allows us to contribute existing or newly originated loan investments in exchange for proceeds from repayments or repurchases of loans held in BRSP 2021-FL1, subject to the satisfaction of certain conditions set forth in the indenture. In addition to existing eligible loans available for reinvestment, the continued origination of securitization eligible loans is required to ensure that we reinvest the available proceeds within BRSP 2021-FL1. During the year ended December 31, 2021 and through February 18, 2022, two loans held in BRSP 2021-FL1 were fully repaid, totaling $126.2 million. We replaced the repaid loans by contributing existing loan investments of equal value.

Additionally, BRSP 2021-FL1 contains note protection tests that can be triggered as a result of contributed loan defaults, losses, and certain other events outlined in the indenture, beyond established thresholds. A note protection test failure that is not remedied can result in the redirection of interest proceeds from the below investment grade tranches to amortize the most senior outstanding tranche. We will continue to closely monitor all loan investments contributed to BRSP 2021-FL1, a deterioration in the performance of an underlying loan could negatively impact our liquidity position.

*5-Investment Preferred Financing*

During the second quarter of 2020, we entered into a preferred financing arrangement (on a portfolio of five of our underlying investment interests) (the “5-Investment Preferred Financing”) from investment vehicles managed by Goldman Sachs (“GS”). The preferred financing provided $200 million of proceeds at closing.

The preferred financing was limited to (i) our interests in four co-investments alongside investment funds managed by affiliates of the Manager, each of which are financings on underlying development projects (including residential, office and/or mixed-use components), and (ii) a wholly-owned triple-net warehouse distribution portfolio leased to a national grocery chain. The preferred financing provided GS a 10% preferred return and certain other minimum returns, as well as a minority interest in future cash flows.

During the fourth quarter of 2021, the four co-investments were sold in the Co-invest Portfolio Sale (refer to “Our Portfolio” section for further discussion) and we used all the sale proceeds to substantially fund the repayment of the 5-Investment Preferred Financing totaling $210 million. The payoff allowed us to reclaim 100% ownership of the triple net warehouse distribution portfolio leased to a national grocery chain.

*Other potential sources of financing*

In the future, we may also use other sources of financing to fund the acquisition of our target assets, including secured and unsecured forms of borrowing and selective wind-down and dispositions of assets. We may also seek to raise equity capital or issue debt securities in order to fund our future investments.

### *Liquidity Needs*

In addition to our loan origination activity and general operating expenses, our primary liquidity needs include interest and principal payments under our Bank Credit Facility, securitization bonds, and secured debt. Information concerning our contractual obligations and commitments to make future payments, including our commitments to repay borrowings, is included in the following table as of December 31, 2021. This table excludes our obligations that are not fixed and determinable (dollars in thousands):

| | Payments Due by Period | | | | |
|---|---|---|---|---|---|
| | **Total** | **Less than a Year** | **1-3 Years** | **3-5 Years** | **More than 5 Years** |
| Bank credit facility[(1)] | $ 88 | $ 88 | $ — | $ — | $ — |
| Secured debt[(2)] | 1,924,108 | 417,989 | 745,654 | 463,780 | 296,685 |
| Securitization bonds payable[(3)] | 1,588,378 | 217,369 | 1,291,645 | 79,364 | — |
| Ground lease obligations[(4)] | 29,897 | 3,099 | 5,323 | 4,221 | 17,254 |
| Office lease | 5,387 | 798 | 1,596 | 1,596 | 1,397 |
| | $ 3,547,858 | $ 639,343 | $ 2,044,218 | $ 548,961 | $ 315,336 |
| Lending commitments[(5)] | 264,882 | | | | |
| Total | $ 3,812,740 | | | | |

(1) Future interest payments were estimated based on the applicable index at December 31, 2021 and unused commitment fee of 0.35% per annum, assuming principal is repaid on the current maturity date of February 2022.
(2) Amounts include minimum principal and interest obligations through the initial maturity date of the collateral assets. Interest on floating rate debt was determined based on the applicable index at December 31, 2021.
(3) The timing of future principal payments was estimated based on expected future cash flows of underlying collateral loans. Repayments are estimated to be earlier than contractual maturity only if proceeds from underlying loans are repaid by the borrowers.
(4) The amounts represent minimum future base rent commitments through initial expiration dates of the respective noncancellable operating ground leases, excluding any contingent rent payments. Rents paid under ground leases are recoverable from tenants.
(5) Future lending commitments may be subject to certain conditions that borrowers must meet to qualify for such fundings. Commitment amount assumes future fundings meet the terms to qualify for such fundings.

## Cash Flows

The following presents a summary of our consolidated statements of cash flows for the years ended December 31, 2021, 2020 and 2019 (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| **Cash flow provided by (used in):** | **2021** | **2020** | **2019** |
| Operating activities | $ (21,270) | $ 96,356 | $ 137,176 |
| Investing activities | (555,789) | 1,002,742 | (416,025) |
| Financing activities | 384,356 | (754,062) | 286,783 |

### *Operating Activities*

Cash inflows from operating activities are generated primarily through interest received from loans receivable and securities, property operating income from our real estate portfolio, and distributions of earnings received from unconsolidated ventures. This is partially offset by payment of interest expenses for credit facilities and mortgages payable, and operating expenses supporting our various lines of business, including property management and operations, loan servicing and workout of loans in default, investment transaction costs, as well as general administrative costs.

Our operating activities used net cash outflows of $21.3 million for the year ended December 31, 2021 and provided net cash inflows of $96.4 million and $137.2 million for the years ended December 31, 2021, 2020 and 2019, respectively. Net cash provided by operating activities decreased $117.6 million for the year ended December 31, 2021 compared to the year ended December 31, 2020, primarily due to lower net property operating income and net interest income earned resulting from sales of real estate properties and loans throughout 2021. Net cash provided by operating activities decreased by $40.8 million for the year ended December 31, 2020 compared to the year ended December 31, 2019, primarily due to lower property operating income following sales of real estate properties during the year ended December 31, 2020.

We believe cash flows from operations, available cash balances and our ability to generate cash through short and long-term borrowings are sufficient to fund our operating liquidity needs.

***Investing Activities***

Investing activities include cash outlays for acquisition of real estate, disbursements on new and/or existing loans, and contributions to unconsolidated ventures, which are partially offset by repayments and sales of loan receivables, distributions of capital received from unconsolidated ventures, proceeds from sale of real estate, as well as proceeds from maturity or sale of securities.

Investing activities used net cash outflows of $555.8 million for the year ended December 31, 2021. Net cash used in investing activities in 2021 resulted primarily from originations and future advances on our loans and preferred equity held for investment, net of $1.8 billion partially offset by repayments on loan and preferred equity held for investment of $485.4 million, proceeds from sales of real estate of $332.0 million, proceeds from the sale of investments in unconsolidated ventures of $198.3 million and repayments of principal in mortgage loans held in securitization trusts of $78.9 million.

Investing activities generated net cash inflows of $1.0 billion for the year ended December 31, 2020. Net cash provided by investing activities in 2020 resulted primarily from proceeds from repayments on loan and preferred equity held for investment of $434.7 million, sales of real estate of $454.6 million, proceeds from sales of loans held for sale of $137.1 million, proceeds from sale of real estate securities, available for sale of $149.6 million and proceeds from sale of investments in unconsolidated ventures of $108.4 million partially offset by originations and future advances on our loans and preferred equity held for investment, net of $297.0 million, and contributions to investments in unconsolidated ventures of $48.9 million.

Investing activities in 2019 used net cash outflows of $416.0 million, resulting from acquisition, origination and funding of loans and preferred equity held for investment, net of $1.4 billion, partially offset by repayment on loan and preferred equity held for investment of $465.6 million, distributions in excess of cumulative earnings from unconsolidated ventures of $212.6 million, proceeds from sale of investments in unconsolidated ventures of $115.3 million, proceeds from sale of real estate of $85.4 million, repayment of principal in mortgage loans held in securitization trusts of $47.5 million, proceeds from sale of mortgage loans held in securitization trusts of $39.8 million and net receipts on settlement of derivative instruments of $28.9 million.

***Financing Activities***

We finance our investing activities largely through borrowings secured by our investments along with capital from third party or affiliated co-investors. We also have the ability to raise capital in the public markets through issuances of common stock, as well as draw upon our corporate credit facility, to finance our investing and operating activities. Accordingly, we incur cash outlays for payments on third party debt, dividends to our common stockholders as well as distributions to our noncontrolling interests.

Financing activities provided net cash of $384.4 million for the year ended December 31, 2021. Net cash provided by financing activities in 2021 resulted primarily from borrowings from credit facilities and securitization bonds of $1.3 billion and of $670.0 million, respectively, partially offset by repayment of credit facilities of $955.3 million, repayment of mortgage notes of $266.6 million, repayment of mortgage obligations issued by securitization trusts of $78.9 million, and distributions noncontrolling interests of $255.5 million.

Financing activities used net cash of $754.1 million for the year ended December 31, 2020. Net cash used in financing activities in 2020 resulted primarily from repayment of credit facilities of $862.6 million, repayment of mortgage notes of $240.1 million, distributions paid on common stock and to noncontrolling interests of $52.6 million and distributions to noncontrolling interests of $31.3 million. This was partially offset by of borrowings from credit facilities of $298.6 million, contributions to the 5-Investment Preferred Financing of $200.0 million, and borrowings from mortgage notes of $18.6 million.

Our financing activities provided net cash inflow of $286.8 million for the year ended December 31, 2019. Net cash provided by financing activities in 2019 resulted primarily from borrowings from credit facilities of $1.4 billion, borrowings from securitization bonds of $840.4 million and borrowings from mortgage notes of $93.6 million, partially offset by repayment of credit facilities of $1.7 billion, distributions paid on common stock and noncontrolling interests of $222.8 million and repayment of securitization bonds of $81.4 million.

**Underwriting, Asset and Risk Management**

We closely monitor our portfolio and actively manage risks associated with, among other things, our assets and interest rates. Prior to investing in any particular asset, the underwriting team, in conjunction with third party providers, undertakes a rigorous asset-level due diligence process, involving intensive data collection and analysis, to ensure that we understand fully the state of the market and the risk-reward profile of the asset. Beginning in 2021, our investment and portfolio management and risk assessment practices diligence the environmental, social and governance ("ESG") standards of our business counterparties, including borrowers, sponsors, partners and service providers, and that of our investment assets and underlying collateral, which may include sustainability initiatives, recycling, energy efficiency and water management, volunteer and charitable efforts, anti-money laundering and know-your-client policies, and diversity, equity and inclusion practices in workforce leadership, composition and hiring practices. Prior to making a final investment decision, we focus on portfolio diversification to determine whether a target asset will cause our portfolio to be too heavily concentrated with, or cause too much risk exposure to, any one borrower, real estate sector, geographic region, source of cash flow for payment or other geopolitical issues. If we determine that a proposed acquisition presents excessive concentration risk, it may determine not to acquire an otherwise attractive asset.

For each asset that we acquire, our asset management team engages in active management of the asset, the intensity of which depends on the attendant risks. The asset manager works collaboratively with the underwriting team to formulate a strategic plan for the particular asset, which includes evaluating the underlying collateral and updating valuation assumptions to reflect changes in the real estate market and the general economy. This plan also generally outlines several strategies for the asset to extract the maximum amount of value from each asset under a variety of market conditions. Such strategies may vary depending on the type of asset, the availability of refinancing options, recourse and maturity, but may include, among others, the restructuring of non-performing or sub-performing loans, the negotiation of discounted pay-offs or other modification of the terms governing a loan, and the foreclosure and management of assets underlying non-performing loans in order to reposition them for profitable disposition. We continuously track the progress of an asset against the original business plan to ensure that the attendant risks of continuing to own the asset do not outweigh the associated rewards. Under these circumstances, certain assets will require intensified asset management in order to achieve optimal value realization.

Our asset management team engages in a proactive and comprehensive on-going review of the credit quality of each asset it manages. In particular, for debt investments on at least an annual basis, the asset management team will evaluate the financial wherewithal of individual borrowers to meet contractual obligations as well as review the financial stability of the assets securing such debt investments. Further, there is ongoing review of borrower covenant compliance including the ability of borrowers to meet certain negotiated debt service coverage ratios and debt yield tests. For equity investments, the asset management team, with the assistance of third-party property managers, monitors and reviews key metrics such as occupancy, same store sales, tenant payment rates, property budgets and capital expenditures. If through this analysis of credit quality, the asset management team encounters declines in credit not in accord with the original business plan, the team evaluates the risks and determine what changes, if any, are required to the business plan to ensure that the attendant risks of continuing to hold the investment do not outweigh the associated rewards.

In addition, the audit committee of our Board of Directors, in consultation with management, periodically reviews our policies with respect to risk assessment and risk management, including key risks to which we are subject, including credit risk, liquidity risk and market risk, and the steps that management has taken to monitor and control such risks.

**Inflation**

Virtually all of our assets and liabilities are interest rate sensitive in nature. As a result, interest rates and other factors influence our performance significantly more than inflation does. A change in interest rates may correlate with the inflation rate. Substantially all of the leases at our multifamily properties allow for monthly or annual rent increases which provide us with the opportunity to achieve increases, where justified by the market, as each lease matures. Such types of leases generally minimize the risks of inflation on our multifamily properties.

Refer to Item 7A, “Quantitative and Qualitative Disclosures About Market Risk” for additional details.

**Critical Accounting Policies and Estimates**

Preparation of financial statements in accordance with U.S. generally accepted accounting principles requires the use of estimates and assumptions that involve the exercise of judgment and that affect the reported amounts of assets, liabilities, and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period.

Certain accounting policies are considered to be critical accounting policies. Critical accounting policies are those that are most important to the portrayal of our financial condition and results of operations and require subjective and complex judgments, and for which the impact of changes in estimates and assumptions could have a material effect on our financial statements.

During 2021, we reviewed and evaluated our critical accounting policies and estimates and we believe they are appropriate. The following is a summary of our credit losses policy, which we believe is the most affected by our judgments, estimates, and assumptions.

***Credit Losses***

The current expected credit loss ("CECL") reserve for our financial instruments carried at amortized cost and off-balance sheet credit exposures, such as loans, loan commitments and trade receivables represents a lifetime estimate of expected credit losses. Factors considered by us when determining the CECL reserve include loan-specific characteristics such as loan-to-value ("LTV") ratio, vintage year, loan term, property type, occupancy and geographic location, financial performance of the borrower, expected payments of principal and interest, current and stabilized property value, stabilized net operating income, as well as internal or external information relating to past events, current conditions and reasonable and supportable forecasts.

The CECL reserve is measured on a collective (pool) basis when similar risk characteristics exist for multiple financial instruments. If similar risk characteristics do not exist, we measure the CECL reserve on an individual instrument basis. The determination of whether a particular financial instrument should be included in a pool can change over time. If a financial asset's risk characteristics change, we evaluate whether it is appropriate to continue to keep the financial instrument in its existing pool or evaluate it individually.

In measuring the CECL reserve for financial instruments that share similar risk characteristics, we primarily apply a probability of default ("PD")/loss given default ("LGD") model for instruments that are collectively assessed, whereby the CECL reserve is calculated as the product of PD, LGD and exposure at default ("EAD"). Our model principally utilizes historical loss rates derived from a commercial mortgage backed securities database with historical losses from 1998 through December 2021 provided by a third party, Trepp LLC, forecasting the loss parameters using a scenario-based statistical approach over a reasonable and supportable forecast period of twelve months, followed by a straight-line reversion period of twelve-months back to average historical losses.

For financial instruments assessed outside of the PD/LGD model on an individual basis, including when it is probable that we will be unable to collect the full payment of principal and interest on the instrument, we apply a discounted cash flow ("DCF") methodology. For financial instruments where the borrower is experiencing financial difficulty based on our assessment at the reporting date and the repayment is expected to be provided substantially through the operation or sale of the collateral, we may elect to use as a practical expedient the fair value of the collateral at the reporting date when determining the provision for loan losses.

In developing the CECL reserve for our loans and preferred equity held for investment, we consider the risk ranking of each loan and preferred equity as a key credit quality indicator. The risk rankings are based on a variety of factors, including, without limitation, underlying real estate performance and asset value, values of comparable properties, durability and quality of property cash flows, sponsor experience and financial wherewithal, and the existence of a risk-mitigating loan structure. Additional key considerations include loan-to-value ratios, debt service coverage ratios, loan structure, real estate and credit market dynamics, and risk of default or principal loss. Based on a five-point scale, our loans and preferred equity held for investment are rated "1" through "5," from less risk to greater risk, and the ratings are updated quarterly. At the time of origination or purchase, loans and preferred equity held for investment are ranked as a "3" and will move accordingly going forward based on the ratings which are defined as follows:

1. Very Low Risk-The loan is performing as agreed. The underlying property performance has exceeded underwritten expectations with very strong net operating income (”NOI"), debt service coverage ratio, debt yield and occupancy metrics. Sponsor is investment grade, very well capitalized, and employs very experienced management team.

2. Low Risk-The loan is performing as agreed. The underlying property performance has met or exceeds underwritten expectations with high occupancy at market rents, resulting in consistent cash flow to service the debt. Strong sponsor that is well capitalized with experienced management team.

3. Average Risk-The loan is performing as agreed. The underlying property performance is consistent with underwriting expectations. The property generates adequate cash flow to service the debt, and/or there is enough reserve or loan structure to provide time for sponsor to execute the business plan. Sponsor has routinely met its obligations and has experience owning/operating similar real estate.

4. High Risk/Delinquent/Potential for Loss-The loan is in excess of 30 days delinquent and/or has a risk of a principal loss. The underlying property performance is behind underwritten expectations. Loan covenants may require occasional waivers/modifications. Sponsor has been unable to execute its business plan and local market fundamentals have deteriorated. Operating cash flow is not sufficient to service the debt and debt service payments may be coming from sponsor equity/loan reserves.

5. Impaired/Defaulted/Loss Likely-The loan is in default or a default is imminent, and has a high risk of a principal loss, or has incurred a principal loss. The underlying property performance is significantly worse than underwritten expectation and sponsor has failed to execute its business plan. The property has significant vacancy and current cash flow does not support

debt service. Local market fundamentals have significantly deteriorated resulting in depressed comparable property valuations versus underwriting.

We also consider qualitative and environmental factors, including, but not limited to, economic and business conditions, nature and volume of the loan portfolio, lending terms, volume and severity of past due loans, concentration of credit and changes in the level of such concentrations in its determination of the CECL reserve.

We have elected to not measure a CECL reserve for accrued interest receivable as it is reversed against interest income when a loan or preferred equity investment is placed on nonaccrual status. Loans and preferred equity investments are charged off against the provision for loan losses when all or a portion of the principal amount is determined to be uncollectible.

Changes in the CECL reserve for our financial instruments are recorded in provision for loan losses on the consolidated statements of operations with a corresponding offset to the loans and preferred equity held for investment or as a component of other liabilities for future loan fundings recorded on our consolidated balance sheets.

The CECL accounting estimate is subject to uncertainty from quarter to quarter as our loan portfolio changes and market and economic conditions evolve. The sensitivity of each assumption and its impact on the CECL reserve may change over time and from period to period.

**Item 7A. Quantitative and Qualitative Disclosures About Market Risk**

Our primary market risks are interest rate risk, prepayment risk, extension risk, credit risk, real estate market risk, capital market risk and foreign currency risk, either directly through the assets held or indirectly through investments in unconsolidated ventures, with each risk heightened as a result of the ongoing and numerous adverse impacts of the COVID-19 pandemic. As stated in the “Impact of COVID-19” section in “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations,” we are taking steps to mitigate certain risks associated with COVID-19, however the extent to which the COVID-19 pandemic impacts us, our business, our borrowers and our tenants will depend on future developments, which are highly uncertain and cannot be predicted with confidence, including the scope, severity and duration of the pandemic, the actions taken to contain the pandemic or mitigate its impact, and the direct and indirect economic effects of the pandemic and containment measures, among others.

*Interest Rate Risk*

Interest rate risk relates to the risk that the future cash flow of a financial instrument will fluctuate because of changes in market interest rates. Interest rate risk is highly sensitive to many factors, including governmental, monetary and tax policies, domestic and international economic and political considerations, inflation and other factors beyond our control. Credit curve spread risk is highly sensitive to the dynamics of the markets for loans and securities we hold. Excessive supply of these assets combined with reduced demand will cause the market to require a higher yield. This demand for higher yield will cause the market to use a higher spread over the U.S. Treasury securities yield curve, or other benchmark interest rates, to value these assets.

As U.S. Treasury securities are priced to a higher yield and/or the spread to U.S. Treasuries used to price the assets increases, the price at which we could sell some of our fixed rate financial assets may decline. Conversely, as U.S. Treasury securities are priced to a lower yield and/or the spread to U.S. Treasuries used to price the assets decreases, the value of our fixed rate financial assets may increase. Fluctuations in LIBOR and SOFR may affect the amount of interest income we earn on our floating rate borrowings and interest expense we incur on borrowings indexed to LIBOR and SOFR, including under credit facilities and investment-level financing.

We utilize a variety of financial instruments on some of our investments, including interest rate swaps, caps, floors and other interest rate exchange contracts, in order to limit the effects of fluctuations in interest rates on their operations. The use of these types of derivatives to hedge interest-earning assets and/or interest-bearing liabilities carries certain risks, including the risk that losses on a hedge position will reduce the funds available for distribution and that such losses may exceed the amount invested in such instruments. A hedge may not perform its intended purpose of offsetting losses of rising interest rates. Moreover, with respect to certain of the instruments used as hedges, there is exposure to the risk that the counterparties may cease making markets and quoting prices in such instruments, which may inhibit the ability to enter into an offsetting transaction with respect to an open position. Our profitability may be adversely affected during any period as a result of changing interest rates.

As of December 31, 2021, a hypothetical 100 basis point increase in the applicable interest rate benchmark on our loan portfolio would decrease interest income by $4.1 million annually, net of interest expense.

*Prepayment risk*

Prepayment risk is the risk that principal will be repaid at a different rate than anticipated, resulting in a less than expected return on an investment. As prepayments of principal are received, any premiums paid on such assets are amortized against interest income, while any discounts on such assets are accreted into interest income. Therefore, an increase in prepayment rates has the following impact: (i) accelerates amortization of purchase premiums, which reduces interest income earned on the assets; and conversely, (ii) accelerates accretion of purchase discounts, which increases interest income earned on the assets.

*Extension risk*

The weighted average life of assets is projected based on assumptions regarding the rate at which borrowers will prepay or extend their mortgages. If prepayment rates decrease or extension options are exercised by borrowers at a rate that deviates significantly from projections, the life of fixed rate assets could extend beyond the term of the secured debt agreements. This in turn could negatively impact liquidity to the extent that assets may have to be sold and losses may be incurred as a result.

*Credit risk*

Investment in loans held for investment is subject to a high degree of credit risk through exposure to loss from loan defaults. Default rates are subject to a wide variety of factors, including, but not limited to, borrower financial condition, property performance, property management, supply/demand factors, construction trends, consumer behavior, regional economics, interest rates, the strength of the U.S. economy and other factors beyond our control, all of which have and may continue to be detrimentally impacted by the COVID-19 pandemic. All loans are subject to a certain probability of default. We manage credit risk through the underwriting process, acquiring investments at the appropriate discount to face value, if any, and establishing loss assumptions. Performance of the loans is carefully monitored, including those held through joint venture investments, as well as external factors that may affect their value.

We are also subject to the credit risk of the tenants in our properties, including business closures, occupancy levels, meeting rent or other expense obligations, lease concessions, and ESG standards and practices among other factors, all of which have and may continue to be detrimentally impacted by the COVID-19 pandemic. We seek to undertake a rigorous credit evaluation of the tenants prior to acquiring properties. This analysis includes an extensive due diligence investigation of the tenants' businesses, as well as an assessment of the strategic importance of the underlying real estate to the respective tenants' core business operations. Where appropriate, we may seek to augment the tenants' commitment to the properties by structuring various credit enhancement mechanisms into the underlying leases. These mechanisms could include security deposit requirements or guarantees from entities that are deemed credit worthy.

We are working closely with our borrowers and tenants to address the impact of COVID-19 on their businesses. Our in-depth understanding of CRE and real estate-related investments, and in-house underwriting, asset management and resolution capabilities, provides us and management with a sophisticated full-service platform to regularly evaluate our investments and determine primary, secondary or alternative strategies to manage the credit risks described above. This includes intermediate servicing and complex and creative negotiating, restructuring of non-performing investments, foreclosure considerations, intense management or development of owned real estate, in each case to manage the risks faced to achieve value realization events in our interests and our stockholders. Solutions considered due to the impact of the COVID-19 pandemic may include defensive loan or lease modifications, temporary interest or rent deferrals or forbearances, converting current interest payment obligations to payment-in-kind, repurposing reserves and/or covenant waivers. Depending on the nature of the underlying investment and credit risk, we may pursue repositioning strategies through judicious capital investment in order to extract value from the investment or limit losses.

There can be no assurance that the measures taken will be sufficient to address the negative impact the COVID-19 pandemic may have on our future operating results, liquidity and financial condition.

*Real estate market risk*

We are exposed to the risks generally associated with the commercial real estate market. The market values of commercial real estate are subject to volatility and may be affected adversely by a number of factors, including, but not limited to, national, regional and local economic conditions, as well as changes or weakness in specific industry segments, and other macroeconomic factors beyond our control, including the COVID-19 pandemic, which have and may continue to affect occupancy rates, capitalization rates and absorption rates. This in turn could impact the performance of tenants and borrowers. We seek to manage these risks through our underwriting due diligence and asset management processes and the solutions oriented process described above.

*Capital markets risk*

We are exposed to risks related to the debt capital markets, specifically the ability to finance our business through borrowings under secured revolving repurchase facilities, secured and unsecured warehouse facilities or other debt instruments. We seek to mitigate these risks by monitoring the debt capital markets to inform their decisions on the amount, timing and terms of our borrowings.

The COVID-19 pandemic has had a direct and volatile impact on the global markets, including the commercial real estate equity and debt capital markets. The disruption caused by the COVID-19 pandemic has led to a negative impact on asset valuations and significant constraints on liquidity in the capital markets, which have led to restrictions on lending activity, downward pressure on covenant compliance and requirements to post margin or repayments under master repurchase financing arrangements. Our Master Repurchase Facilities are partial recourse, and margin call provisions do not permit valuation adjustments based on capital markets events; rather they are limited to collateral-specific credit marks generally determined on a commercially reasonable basis. We have timely met margin calls, primarily under our CMBS Credit Facilities.

We have amended our Bank Credit Facility and Master Repurchase Facilities to adjust certain covenants (such as the tangible net worth covenant), reduce advance rates on certain financed assets, obtain margin call holidays and permitted modification flexibilities, in an effort to mitigate the risk of future compliance issues, including margin calls, under our financing arrangements.

*Foreign Currency Risk*

We have foreign currency rate exposures related to our foreign currency-denominated investments held by our foreign subsidiaries. Changes in foreign currency rates can adversely affect the fair values and earning of our non-U.S. holdings. We generally mitigate this foreign currency risk by utilizing currency instruments to hedge our net investments in our foreign subsidiaries. The type of hedging instruments that we employ on our foreign subsidiary investments are put options.

At December 31, 2021, we had approximately NOK 686.3 million or a total of $77.9 million, in net investments in our European subsidiaries. A 1.0% change in the foreign currency rate would result in a $0.8 million increase or decrease in translation gain or loss included in other comprehensive income in connection with our European subsidiary.

A summary of the foreign exchange contracts in place at December 31, 2021, including notional amount and key terms, is included in Note 15, “Derivatives,” to Part IV, Item 15, “Exhibits and Financial Statement Schedules.” The maturity dates of these instruments approximate the projected dates of related cash flows for specific investments. Termination or maturity of currency hedging instruments may result in an obligation for payment to or from the counterparty to the hedging agreement. We are exposed to credit loss in the event of non-performance by counterparties for these contracts. To manage this risk, we select major international banks and financial institutions as counterparties and perform a quarterly review of the financial health and stability of our trading counterparties. Based on our review at December 31, 2021, we do not expect any counterparty to default on its obligations.

**Item 8. Financial Statements**

The financial statements and the supplementary financial data required by this item appear in Item 6 and Item 15 of this Annual Report.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosures**

None.

**Item 9A. Controls and Procedures**

**Evaluation of Disclosure Controls and Procedures**

We maintain disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

As required by Rule 13a-15(b) under the Exchange Act, our management carried out an evaluation, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of December 31, 2021, our disclosure controls and procedures were effective at providing reasonable assurance regarding the reliability of the information required to be disclosed by us in reports that we file under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms.

**Management Report or Attestation Report Regarding Internal Control**

Management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in 13a-15(f) and 15d-15(f) of the Exchange Act). Our internal control over financial reporting includes policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of assets that could have a material effect on our financial statements.

Under the supervision and with the participation of our management, we evaluated the effectiveness of our internal control over financial reporting using the criteria set forth in the *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) (2013 framework). Our management concluded that our internal control over financial reporting was effective as of December 31, 2021.

Our internal control system was designed to provide reasonable assurance to management and our Board of Directors regarding the preparation and fair presentation of published financial statements. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Ernst & Young LLP, our independent registered accounting firm, has audited our financial statements included in this Annual Report and has issued an attestation report on the effectiveness of our internal control over financial reporting, which is included in this Form 10-K.

**Changes in Internal Control over Financial Reporting**

There have been no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the most recent fiscal quarter that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of BrightSpire Capital, Inc.

**Opinion on Internal Control Over Financial Reporting**

We have audited BrightSpire Capital, Inc.'s internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control−Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework), (the COSO criteria). In our opinion, BrightSpire Capital, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2021, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive income (loss), equity and cash flows for each of the three years in the period ended December 31, 2021, and the related notes and financial statement schedules listed in the Index at Item 15 and our report dated February 22, 2022 expressed an unqualified opinion thereon.

**Basis for Opinion**

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

**Definition and Limitations of Internal Control Over Financial Reporting**

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Ernst & Young LLP

New York, New York
February 22, 2022

## Item 9B. Other Information

### MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following is a discussion of certain material U.S. federal income tax considerations relating to our qualification and taxation as a REIT and the acquisition, holding, and disposition of our Class A common stock (for purposes of this section only "stock"). As used in this section, references to the terms "Company," "we," "our," and "us" mean only BrightSpire Capital, Inc. and not its subsidiaries or other lower-tier entities, except as otherwise indicated. This summary is based upon the Internal Revenue Code of 1986, as amended (the "Code), the regulations promulgated by the U.S. Treasury Department ("Treasury Regulations"), rulings and other administrative interpretations and practices of the Internal Revenue Service (the "IRS") (including administrative interpretations and practices expressed in private letter rulings which are binding on the IRS only with respect to the particular taxpayers who requested and received those rulings), and judicial decisions, all as currently in effect, and all of which are subject to differing interpretations or to change, possibly with retroactive effect. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below. BrightSpire Capital Operating Company, LLC (the "Operating Partnership") has not sought and will not seek an advance ruling from the IRS regarding any matter discussed in this section. The summary is also based upon the assumption that we have operated and will operate the Operating Partnership and its subsidiaries and affiliated entities in accordance with their applicable organizational documents and various statements made in that section as to our intended method of operation. This summary is for general information only, and does not purport to discuss all aspects of U.S. federal income taxation that may be important to a particular investor in light of its investment or tax circumstances, or to investors subject to special tax rules, including:

- insurance companies;
- tax-exempt organizations (except to the extent discussed in "Considerations Relating to BrightSpire Capital, Inc.'s Class A Common Stock—Taxation of Holders of Class A Common Stock—Taxation of Tax-Exempt Holders" below);
- financial institutions or broker-dealers;
- non-U.S. individuals and non-U.S. corporations (except to the extent discussed in "Considerations Relating to BrightSpire Capital, Inc.'s Class A Common Stock—Taxation of Holders of Class A Common Stock—Taxation of Non-U.S. Holders" below);
- U.S. expatriates;
- persons who mark-to-market our stock;
- subchapter S corporations;
- U.S. holders, as defined below, whose functional currency is not the U.S. dollar;
- regulated investment companies;
- REITs;
- trusts and estates;
- holders who receive our stock through the exercise of employee stock options or otherwise as compensation;
- persons holding our stock as part of a "straddle," "hedge," "conversion transaction," "synthetic security" or other integrated investment;
- persons subject to the alternative minimum tax provisions of the Code;
- persons holding our stock through a partnership or similar pass-through entity or arrangement; and
- persons holding a 10% or more (by vote or value) beneficial interest in our stock.

This summary assumes that holders hold shares of our stock as capital assets for U.S. federal income tax purposes, which generally means property held for investment.

The statements in this section are based on the current U.S. federal income tax laws, are for general information purposes only and are not tax advice. We cannot assure you that new laws, interpretations of law or court decisions, any of which may take effect retroactively, will not cause any statement in this section to be inaccurate.

THE U.S. FEDERAL INCOME TAX TREATMENT OF US AS A REIT AND OF YOU AS A HOLDER OF OUR STOCK DEPENDS IN SOME INSTANCES ON DETERMINATIONS OF FACT AND INTERPRETATIONS OF COMPLEX PROVISIONS OF U.S. FEDERAL INCOME TAX LAW FOR WHICH NO CLEAR PRECEDENT OR AUTHORITY MAY BE AVAILABLE. IN ADDITION, THE TAX CONSEQUENCES TO ANY PARTICULAR HOLDER OF OUR STOCK WILL DEPEND ON SUCH HOLDER'S PARTICULAR TAX CIRCUMSTANCES.

YOU SHOULD CONSULT YOUR TAX ADVISOR REGARDING THE SPECIFIC TAX CONSEQUENCES TO YOU OF THE OWNERSHIP AND SALE OF OUR STOCK AND OF ITS INTENDED ELECTION TO BE TAXED AS A REIT. SPECIFICALLY, YOU SHOULD CONSULT YOUR TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL, NON-U.S. AND OTHER TAX CONSEQUENCES OF SUCH OWNERSHIP, SALE AND ELECTION, AND REGARDING POTENTIAL CHANGES IN APPLICABLE TAX LAWS.

**U.S. Holders and Non-U.S. Holders**

For purposes of this discussion, a ''U.S. holder'' is a beneficial holder of stock who is:

- a citizen or resident of the United States;
- a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the U.S. or a political subdivision thereof or the District of Columbia;
- an estate whose income is subject to U.S. federal income taxation regardless of its source; or
- a trust if (1) a U.S. court is able to exercise primary supervision over the administration of such trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (2) it has a valid election in place to be treated as a U.S. person.

For purposes of this discussion, a ''non-U.S. holder'' is a beneficial holder of stock who is neither a partnership (including an entity treated as a partnership for U.S. federal income tax purposes) nor a U.S. holder.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds stock, the U.S. federal income tax treatment of a partner generally will depend upon the status of the partner as a U.S. holder or non-U.S. holder and the activities of the partnership. A partner of a partnership holding stock should consult its own tax advisor regarding the U.S. federal income tax consequences to the partner of the acquisition, ownership and disposition of stock by the partnership.

**CONSIDERATIONS RELATING TO OUR CLASS A COMMON STOCK**

**Taxation of BrightSpire Capital, Inc.**

We elected to be taxed as a REIT under the U.S. federal income tax laws commencing with our taxable year ended December 31, 2018. We believe that we are organized and have operated, and we intend to continue to operate, in a manner so as to qualify for taxation as a REIT under the Code. This section discusses the laws governing the U.S. federal income tax treatment of a REIT and its holders. These laws are highly technical and complex.

Qualification and taxation as a REIT depends on our ability to meet on a continuing basis, through actual operating results, distribution levels, and diversity of ownership by holders of our securities and asset ownership, and various other qualification requirements imposed upon REITs by the Code. In addition, our ability to qualify as a REIT may depend in part upon the operating results, organizational structure and entity classification for U.S. federal income tax purposes of certain entities or arrangements in which we invest. Our ability to qualify as a REIT also requires that we satisfy certain asset tests, some of which depend upon the fair market values of assets that we own directly or indirectly. Such values may not be susceptible to a precise determination, whether for past, current, or future periods, and based upon the types of assets that we own and intend to own, such values can vary rapidly, significantly and unpredictably. Accordingly, no assurance can be given that the actual results of our operations for any taxable year will satisfy such requirements for qualification and taxation as a REIT. Similarly, the income we earn from our assets may not be earned when or in the proportions anticipated. For example, we may encounter situations in which a relatively small investment generates a higher than expected return in a particular year (or vice versa). A discussion of the tax consequences of the failure to qualify as a REIT and certain alternatives is included below in the section entitled "—Failure to Qualify."

As indicated above, our qualification and taxation as a REIT depends upon our ability to meet, on a continuing basis, various qualification requirements imposed upon REITs by the Code. The material qualification requirements are summarized below under "—Requirements for Qualification." While we intend to operate so that we qualify as a REIT, no assurance can be given that the IRS will not challenge our qualification, or that we have been or will be able to operate in accordance with the REIT requirements in the future. See "—Requirements for Qualification-Failure to Qualify."

**Taxation of REITs in General**

Provided that we qualify as a REIT, we will be entitled at the REIT level to a deduction from our taxable income for dividends that we pay and, therefore, will not be subject to U.S. federal corporate income tax at the REIT level on our taxable income that is currently distributed to holders of our securities. This treatment substantially eliminates the “double taxation” at the corporate and holder levels that generally results from an investment in a non-REIT C corporation. A non-REIT C corporation is a corporation that generally is required to pay tax at the corporate level. Double taxation means taxation once at the corporate level when income is earned and once again at the holder level when the income is distributed. In general, the income that we generate is taxed only at the holder level upon a distribution of dividends to our holders.

U.S. holders generally will be subject to taxation on dividends distributed by us (other than designated capital gain dividends and “qualified dividend income”) at rates applicable to ordinary income, instead of at lower capital gain rates. For taxable years beginning after December 31, 2017, and before January 1, 2026, generally, U.S. holders that are individuals, trusts or estates may deduct 20% of the aggregate amount of ordinary dividends distributed by us, subject to certain limitations. Capital gain dividends and qualified dividend income will continue to be subject to a maximum 20% rate. See “—Taxation of Holders of Class A Common Stock—Taxation of Taxable U.S. Holders—Taxation of U.S. Holders on Distributions of Our Stock.”

Any net operating losses, foreign tax credits and other tax attributes of a REIT generally do not pass through to holders, subject to special rules for certain items such as the capital gains that we recognize. See “—Taxation of Holders of Class A Common Stock—Taxation of Taxable U.S. Holders.”

Even if the Company qualifies for taxation as a REIT, the Company will be subject to U.S. federal tax in the following circumstances:

- the Company will pay U.S. federal income tax on any taxable income, including net capital gain, that we do not distribute to holders during, or within a specified time period after, the calendar year in which the income is earned.
- the Company will pay income tax at the highest corporate rate on:
  - net income from the sale or other disposition of property acquired through foreclosure, or foreclosure property, that we hold primarily for sale to customers in the ordinary course of business; and
  - other non-qualifying income from foreclosure property.
- the Company will pay a 100% tax on net income earned from sales or other dispositions of property, other than foreclosure property, by an entity other than a taxable REIT subsidiary, or a TRS, if such property is held primarily for sale to customers in the ordinary course of business.
- if the Company fails to satisfy one or both of the 75% gross income test or the 95% gross income test, as described below in the section entitled “—Requirements for Qualification-Gross Income Tests,” and nonetheless continues to qualify as a REIT because we meet other requirements, we will pay a 100% tax on: the greater of the amount by which we fail the 75% gross income test or the 95% gross income test, multiplied, in either case, by
  - a fraction intended to reflect its profitability.
- if the Company fails any of the asset tests (other than a de minimis failure of the 5% asset test or the 10% vote or value test, as described below in the section entitled “—Requirements for Qualification-Asset Tests”), as long as the failure was due to reasonable cause and not to willful neglect, we file a description of each asset that caused such failure with the IRS, and we dispose of the assets or otherwise comply with the asset tests within six months after the last day of the quarter in which we identify such failure, we will pay a tax equal to the greater of $50,000 or the highest U.S. federal income tax rate then applicable to U.S. corporations (currently 21%) on the net income from the non-qualifying assets during the period in which we failed to satisfy the asset tests in order to remain qualified as a REIT.
- if the Company fails to satisfy one or more requirements for REIT qualification, other than the gross income tests and the asset tests, and such failure is due to reasonable cause and not to willful neglect, we will be required to pay a penalty of $50,000 for each such failure in order to remain qualified as a REIT.
- if the Company fails to distribute during a calendar year at least the sum of: (i) 85% of its REIT ordinary income for the year; (ii) 95% of its REIT capital gain net income for the year; and (iii) any undistributed taxable income required to be distributed from earlier periods, we will pay a 4% nondeductible excise tax on the excess of the required distribution over the amount it actually distributed, plus any retained amounts on which income tax has been paid at the corporate level.

- the Company may elect to retain and pay income tax on our net long-term capital gain. In that case, to the extent that we made a timely designation of such gain, a U.S. holder would be taxed on its proportionate share of our undistributed long-term capital gain and would receive a credit or refund for its proportionate share of the tax we paid.
- the Company will be subject to a 100% excise tax on transactions with a TRS that are not conducted on an arm's-length basis.
- if the Company acquires any asset from a non-REIT C corporation in a merger or other transaction in which we acquire a basis in the asset that is determined by reference either to the non-REIT C corporation's basis in the asset or to another asset, we will pay tax at the highest regular corporate rate applicable if we recognize a gain on the sale or disposition of the asset during the five-year period after we acquire the asset, provided no election is made for the transaction to be taxable on a current basis. This tax will generally apply to gain recognized with respect to assets that we hold as of the effective date of our REIT election if such gain is recognized during the five-year period following such effective date or it may apply if we were to engage in (or, potentially, become a successor to an entity that had engaged in) a tax-free spin-off transaction under Section 355 of the Code within five years of such effective date. The amount of gain on which we would pay tax in the foregoing circumstances is the lesser of:
    - the amount of gain that the Company recognizes at the time of the sale or disposition (or would have recognized if, at the time of a spin-off transaction described above, we had disposed of the applicable asset); and
    - the amount of gain that the Company would have recognized if we had sold the asset at the time we acquired it, assuming that the non-REIT C corporation will not elect in lieu of this treatment an immediate tax when the asset is acquired.
- the Company may be required to pay monetary penalties to the IRS in certain circumstances, including if we fail to meet recordkeeping requirements intended to monitor our compliance with rules relating to the composition of a REIT's holders, as described below in the section entitled "—Requirements for Qualification-Recordkeeping Requirements."
- the earnings of the Company's lower-tier entities that are subchapter C corporations, excluding any qualified REIT subsidiaries, or QRSs, but including domestic TRSs, are subject to U.S. federal corporate income tax.
- if the Company owns a residual interest in a real estate mortgage investment conduit, or a REMIC, we will be taxable at the highest corporate rate on the portion of any excess inclusion income that it derives from the REMIC residual interests equal to the percentage of our stock that is held in record name by "disqualified organizations." Although the law is unclear, IRS guidance indicates that similar rules may apply to a REIT that owns an equity interest in a taxable mortgage pool. To the extent that we own a REMIC residual interest or a taxable mortgage pool through a TRS, we will not be subject to this tax. For a discussion of "excess inclusion income," refer below to the section entitled "— Requirements for Qualification—Taxable Mortgage Pools." A "disqualified organization" includes:
    - the United States;
    - any state or political subdivision of the United States;
    - any foreign government;
    - any international organization;
    - any agency or instrumentality of any of the foregoing;
    - any other tax-exempt organization, other than a farmer's cooperative described in Section 521 of the Code, that is exempt both from income taxation and from taxation under the unrelated business taxable income provisions of the Code; and
    - any rural electrical or telephone cooperative.

In addition, the Company and its subsidiaries may be subject to a variety of taxes, including payroll taxes and state, local and non-U.S. income, property and other taxes on its assets and operations. The Company could also be subject to tax in situations and on transactions not presently contemplated. Moreover, as described further below, the Company's TRSs will be subject to U.S. federal, state and local corporate income tax on their taxable income.

*Requirements for Qualification*

A REIT is a corporation, trust or association that meets each of the following requirements:

1. It is managed by one or more trustees or directors.
2. Its beneficial ownership is evidenced by transferable shares or by transferable certificates of beneficial interest.
3. It would be taxable as a domestic corporation but for the REIT provisions of the U.S. federal income tax laws.
4. It is neither a financial institution nor an insurance company subject to special provisions of the U.S. federal income tax laws.
5. At least 100 persons are beneficial owners of its shares or ownership certificates.
6. Not more than 50% in value of its outstanding shares or ownership certificates is owned, directly or indirectly, by five or fewer individuals, which the Code defines to include certain entities, during the last half of any taxable year.
7. It elects to be a REIT, or has made such election for a previous taxable year, and satisfies all relevant filing and other administrative requirements established by the IRS that must be met to elect and maintain REIT status.
8. It meets certain other qualification tests, described below, regarding the nature of its income and assets and the amount of its distributions to holders.
9. It uses a calendar year for U.S. federal income tax purposes.

The Company must meet requirements 1 through 4, 8 and 9 during its entire taxable year and must meet requirement 5 during at least 335 days of a taxable year of 12 months, or during a proportionate part of a taxable year of less than 12 months. Requirements 5 and 6 began applying to the Company with its 2019 taxable year. If the Company complies with all the requirements for ascertaining the ownership of its outstanding shares in a taxable year and has no reason to know that it violated requirement 6, it will be deemed to have satisfied requirement 6 for that taxable year. For purposes of determining share ownership under requirement 6, an “individual” generally includes a supplemental unemployment compensation benefits plan, a private foundation or a portion of a trust permanently set aside or used exclusively for charitable purposes. An “individual,” however, generally does not include a trust that is a qualified employee pension or profit-sharing trust under the U.S. federal income tax laws, and beneficiaries of such a trust will be treated as holding our stock in proportion to their actuarial interests in the trust for purposes of requirement 6. The Company expects to issue sufficient stock with sufficient diversity of ownership to satisfy requirements 5 and 6. In addition, the Company’s charter restricts the ownership and transfer of our stock so that it should continue to satisfy these requirements. To monitor compliance with the stock ownership requirements, we are generally required to maintain records regarding the actual ownership of our stock. To do so, we must demand written statements each year from the record holders of significant percentages of our stock pursuant to which the record holders must disclose the actual owners of the stock (i.e., the persons required to include in gross income the dividends paid by us). We must maintain a list of those persons failing or refusing to comply with this demand as part of our records. We could be subject to monetary penalties if we fail to comply with these record-keeping requirements. A holder that fails or refuses to comply with the demand is required by Treasury Regulations to submit a statement with its tax return disclosing the actual ownership of our stock and other information. For purposes of requirement 9, we have adopted December 31 as our year end, and thereby satisfy this requirement.

*Relief from Violations; Reasonable Cause*

The Code provides relief from violations of the REIT gross income requirements, as described below under “—Requirements for Qualification—Gross Income Tests,” in cases where a violation is due to reasonable cause and not to willful neglect, and other requirements are met, including the payment of a penalty tax that is based upon the magnitude of the violation. In addition, certain Code provisions extend similar relief in the case of certain violations of the REIT asset requirements (see “—Requirements for Qualification—Asset Tests” below) and other REIT requirements, again provided that the violation is due to reasonable cause and not willful neglect, and other conditions are met, including the payment of a penalty tax. If we did not have reasonable cause for a failure, we would fail to qualify as a REIT. Whether we would have reasonable cause for any such failure cannot be known with certainty because the determination of whether reasonable cause exists depends on the facts and circumstances at the time and we cannot provide any assurance that we in fact would have reasonable cause for a particular failure or that the IRS would not successfully challenge our view that a failure was due to reasonable cause. Moreover, we may be unable to actually rectify a failure and restore asset test compliance within the required timeframe due to the inability to transfer or otherwise dispose of assets, including as a result of restrictions on transfer imposed by our lenders or undertakings with our co-investors and/or the inability to acquire additional qualifying assets due to transaction risks, access to additional capital or other considerations. If we fail to satisfy any of the various REIT requirements, there can be no assurance that these relief provisions would be available to enable us to maintain our qualification as a REIT, and, if such relief provisions are available, the amount of any resultant penalty tax could be substantial.

*Effect of Subsidiary Entities*

*Qualified REIT Subsidiaries*. A corporation that is a QRS is not treated as a corporation separate from its parent REIT. All assets, liabilities and items of income, deduction and credit of a QRS are treated as assets, liabilities and items of income, deduction and credit of the REIT. A QRS is a corporation, other than a TRS, all the stock of which is owned by the REIT. Thus, in applying the requirements described herein, any QRS that the Company owns will be ignored, and all assets, liabilities and items of income, deduction and credit of such subsidiary will be treated as the Company's assets, liabilities and items of income, deduction and credit.

*Other Disregarded Entities and Partnerships*. An unincorporated domestic entity, such as a partnership or limited liability company, that has a single owner for U.S. federal income tax purposes generally is not treated as an entity separate from its owner for U.S. federal income tax purposes. An unincorporated domestic entity with two or more owners is generally treated as a partnership for U.S. federal income tax purposes. In the case of a REIT that is a partner in a partnership that has other partners, the REIT is treated as owning its proportionate share of the assets of the partnership and as earning its allocable share of the gross income of the partnership for purposes of the applicable REIT qualification tests. Thus, the Company's proportionate share of the assets, liabilities and items of income of the Operating Partnership, and any other partnership, joint venture or limited liability company that is treated as a partnership for U.S. federal income tax purposes in which it has acquired or will acquire an interest, directly or indirectly, or a subsidiary partnership, will be treated as its assets and gross income for purposes of applying the various REIT qualification requirements. For purposes of the 10% value test (described in the section entitled "— Asset Tests"), the Company's proportionate share is based on its proportionate interest in the equity interests and certain debt securities issued by the partnership. For all of the other asset and income tests, the Company's proportionate share is based on its proportionate interest in the capital of the partnership.

The Company, through its Operating Partnership, holds and expects to acquire limited partner or non-managing member interests in partnerships and limited liability companies that are joint ventures or investment funds. If a partnership or limited liability company in which the Company owns a direct or indirect interest takes or expects to take actions that could jeopardize its qualification as a REIT or require it to pay tax, the Company may be forced to dispose of its interest in such entity. In addition, it is possible that a partnership or limited liability company could take an action which could cause the Company to fail a REIT gross income or asset test, and that the Company would not become aware of such action in time to dispose of its interest in the partnership or limited liability company or take other corrective action on a timely basis. In that case, the Company could fail to qualify as a REIT unless it was able to qualify for a statutory REIT "savings" provision, which may require it to pay a significant penalty tax to maintain its REIT qualification.

*Taxable REIT Subsidiaries*. A REIT may own up to 100% of the stock of one or more TRSs. A TRS is a fully taxable corporation that may earn income that would not be qualifying income if earned directly by its parent REIT or through a disregarded or partnership subsidiary. The subsidiary corporation and the REIT must jointly elect to treat the subsidiary as a TRS. Any corporation of which a TRS directly or indirectly owns more than 35% of the voting power or value of the stock will automatically be treated as a TRS.

A REIT is not treated as holding the assets of a TRS or as receiving any income that the TRS earns. Rather, the stock issued by the TRS is an asset in the hands of the parent REIT and the REIT recognizes as income the dividends, if any, that it receives from the TRS. This treatment can affect the income and asset test calculations that apply to the REIT. Because a parent REIT does not include the assets and income of such TRSs in determining the parent REIT's compliance with the REIT requirements, TRSs may be used by the parent REIT to undertake indirectly activities that the REIT rules might otherwise preclude it from doing directly or through pass-through subsidiaries (for example, activities that give rise to certain categories of income such as management fees). Other than activities relating to the operation or management of lodging and healthcare facilities, a TRS may generally engage in any business, including the provision of customary or non-customary services to tenants without causing the parent REIT to receive impermissible tenant service income under the REIT gross income tests.

Domestic TRSs are subject to U.S. federal income tax, and state and local income tax, where applicable, on their taxable income. To the extent that a domestic TRS is required to pay taxes, it will have less cash available for distribution to the Company. If dividends are paid to the Company by its domestic TRSs, then the dividends it pays to our holders who are taxed at individual rates, up to the amount of dividends it receives from its domestic TRSs, will generally be eligible to be taxed at the reduced 20% rate applicable to qualified dividend income.

The TRS rules limit the deductibility of interest paid or accrued by a TRS to its parent REIT to assure that the TRS is subject to an appropriate level of corporate taxation. Further, the rules impose a 100% excise tax on transactions between a TRS and its parent REIT or the REIT's tenants that are not conducted on an arm's-length basis. See "—New Interest Deduction Limitation."

The Company is subject to the limitation that securities in TRSs may not represent more than 20% of the value of the Company's total assets. There can be no assurance that we will be able to comply with the 20% limitation.

In general, the Company intends that any loans that are originated or acquired with an intention of selling such loans in a manner that might expose us to a 100% tax on "prohibited transactions" if originated or acquired by us directly, will instead be originated or acquired by a TRS. Refer to the section entitled "—Gross Income Tests—Prohibited Transactions." It is possible that such a TRS through which sales of securities are made may be treated as a "dealer" for U.S. federal income tax purposes. As a dealer, a TRS would generally mark all the securities it holds on the last day of each taxable year to their market value, and will recognize ordinary income or loss on such securities with respect to such taxable year as if they had been sold for that value on that day. In addition, a TRS may further elect to be subject to the mark-to-market regime described above in the event that the TRS is properly classified as a "trader" as opposed to a "dealer" for U.S. federal income tax purposes.

*Subsidiary REITs*. We own interests (directly or indirectly) in one or more entities that qualify as REITs. We believe that each such REIT has operated, and will continue to operate, in a manner to permit us to qualify for taxation as a REIT for U.S. federal income tax purposes and that stock in any such REIT will thus be a qualifying asset for purposes of the 75% asset test. However, if any such REIT fails to qualify as a REIT then (i) the entity would become subject to regular corporate income tax, as described herein (refer below to the section entitled "—Failure to Qualify") and (ii) the Company's equity interest in such entity would cease to be a qualifying real estate asset for purposes of the 75% asset test and, if our protective TRS elections were ineffective, would become subject to the 5% asset test and the 10% vote or value test generally applicable to the Company's ownership in corporations other than REITs, QRSs or TRSs (refer below to the section entitled "—Asset Tests"). If such an entity failed to qualify as a REIT, it is possible that we would not meet the 75% asset test, the 5% asset test, and/or the 10% vote or value test with respect to its interest in such entity, in which event we would fail to qualify as a REIT, unless we qualify for certain relief provisions.

*Taxable Mortgage Pools*. An entity, or a portion of an entity, may be classified as a taxable mortgage pool, or a TMP under the Code if:

- substantially all of its assets consist of debt obligations or interests in debt obligations;
- more than 50% of those debt obligations are real estate mortgages or interests in real estate mortgages as of specified testing dates;
- the entity has issued debt obligations that have two or more maturities; and
- the payments required to be made by the entity on its debt obligations "bear a relationship" to the payments to be received by the entity on the debt obligations that it holds as assets.

Under the Treasury Regulations, if less than 80% of the assets of an entity (or a portion of an entity) consists of debt obligations, these debt obligations are considered not to comprise "substantially all" of its assets and therefore the entity would not be treated as a TMP. Financing arrangements entered into, directly or indirectly, by the Company may give rise to TMPs, with the consequences described in the next paragraph.

A TMP generally is treated as a corporation for U.S. federal income tax purposes. However, special rules apply to a REIT, a portion of a REIT, or a QRS that is a TMP. If a REIT owns directly, or indirectly through one or more QRSs or other entities that are disregarded as separate entities for U.S. federal income tax purposes, 100% of the equity interests in the TMP, the TMP will be a QRS and, therefore, ignored as an entity separate from the REIT for U.S. federal income tax purposes and would not generally affect the tax qualification of the REIT.

If the Company has an investment in an arrangement that is classified as a TMP, that TMP arrangement will be subject to tax as a separate corporation unless the Company owns 100% of the equity in such TMP arrangement so that it is treated as a QRS, as discussed above. Whether an arrangement is or is not a TMP may not be susceptible to precise determination. If an investment in which the Company owns an interest is characterized as a TMP and thus as a separate corporation, the Company will satisfy the 100% ownership requirement only so long as it owns all classes of securities that for tax purposes are characterized as equity, which is often an uncertain factual issue and in any event is unlikely in the Company's case given that it generally holds its assets through the Company's Operating Partnership. Accordingly, if an investment in which the Company owns an interest is characterized as a TMP that does not qualify as a QRS, the Company may be unable to comply with the REIT asset tests that restrict its ability to own most corporations. In addition, a portion of the REIT's income from a TMP arrangement that is not taxed as a separate corporation, which might be non-cash accrued income, could be treated as "excess inclusion income." The manner in which excess inclusion income is calculated is not clear under current law. However, as required by IRS guidance, the Company intends to make such determinations based on what it believes to be a reasonable method. Under the IRS guidance, a REIT's excess inclusion income, including any excess inclusion income from a residual interest in a REMIC, must be allocated among its holders in proportion to dividends paid. A REIT is required to notify holders of the amount of "excess inclusion income" allocated to them. A holder's share of excess inclusion income:

- cannot be offset by any net operating losses otherwise available to the holder;
- in the case of a holder that is a REIT, a regulated investment company or a common trust fund or other pass-through entity, is considered excess inclusion income of such entity;
- is subject to tax as unrelated business taxable income in the hands of most types of holders that are otherwise generally exempt from U.S. federal income tax;
- results in the application of U.S. federal income tax withholding at the maximum rate (30%), without reduction for any otherwise applicable income tax treaty or other exemption, to the extent allocable to most types of non-U.S. holders; and
- is taxable (at the highest corporate tax rate, currently 21%) to the REIT, rather than its holders, to the extent allocable to the REIT's stock held in record name by holders that are disqualified organizations (generally, tax-exempt entities not subject to unrelated business income tax, including governmental organizations), in which case such disqualified organization could be obligated to reimburse the Company for that tax.

Tax-exempt investors, regulated investment company or REIT investors, non-U.S. investors and taxpayers with net operating losses should carefully consider the tax consequences described above, and are urged to consult their tax advisors.

**Gross Income Tests**

The Company must satisfy two gross income tests annually to qualify as a REIT. First, at least 75% of the Company's gross income for each taxable year must consist of defined types of income that it derives, directly or indirectly, from investments relating to real property or mortgages on real property or qualified temporary investment income. Qualifying income for purposes of the 75% gross income test generally includes:

- rents from real property;
- interest on debt secured by mortgages on real property or on interests in real property (including certain types of mortgage backed securities);
- dividends or other distributions on, and gain from the sale of, shares in other REITs;
- gain from the sale of real estate assets;
- income and gain derived from foreclosure property;
- income derived from a REMIC in proportion to the real estate assets held by the REMIC, unless at least 95% of the REMIC's assets are real estate assets, in which case all of the income derived from the REMIC; and
- income derived from the temporary investment of new capital that is attributable to the issuance of our stock or a public offering of our debt with a maturity date of at least five years that is received during the one-year period beginning on the date on which the Company received such new capital.

Although a debt instrument issued by a "publicly offered REIT" (i.e., a REIT that is required to file annual and periodic reports with the SEC under the Exchange Act) is treated as a "real estate asset" for purposes of the asset tests, the interest income and gain from the sale of such debt instruments is not treated as qualifying income for the 75% gross income test unless the debt instrument is secured by real property or an interest in real property.

Second, in general, at least 95% of the Company's gross income for each taxable year must consist of income that is qualifying income for purposes of the 75% gross income test, other types of interest and dividends, gain from the sale or disposition of stock or securities or any combination of these. For purposes of the 95% gross income test, gain from the sale of securities includes gain from the sale of a debt instrument issued by a "publicly offered REIT" even if not secured by real property or an interest in real property. Gross income from the sale of property that the Company holds primarily for sale to customers in the ordinary course of business and cancellation of indebtedness, or COD income is excluded from both the numerator and the denominator in both income tests. Income and gain from "qualified hedging transactions," as defined below in "—Hedging Transactions," that are clearly and timely identified as such are excluded from both the numerator and the denominator for purposes of the 75% and 95% gross income tests. In addition, certain foreign currency gains are excluded from gross income for purposes of one or both of the gross income tests. Refer below to the section entitled "—Foreign Currency Gain." The following paragraphs discuss the specific application of the gross income tests to the Company.

**Rents from Real Property**

Rent that the Company receives from its real property will qualify as "rents from real property" which is qualifying income for purposes of the 75% and 95% gross income tests, only if the following conditions are met:

- First, the rent must not be based, in whole or in part, on the income or profits of any person. However, an amount received or accrued generally will not be excluded from rents from real property solely by reason of being based on fixed percentages of receipts or sales.
- Second, rents the Company receives from a "related party tenant" will not qualify as rents from real property in satisfying the gross income tests unless the tenant is a TRS, and either: (i) at least 90% of the property is leased to unrelated tenants and the rent paid by the TRS is substantially comparable to the rent paid by the unrelated tenants for comparable space; or (ii) the TRS leases a qualified lodging facility or qualified health care property and engages an eligible independent contractor, as defined above in "—Taxable REIT Subsidiaries," to operate such facility or property on its behalf. A tenant is a related party tenant if the REIT, or an actual or constructive owner of 10% or more of the REIT, actually or constructively owns 10% or more of the tenant.
- Third, if rent attributable to personal property leased in connection with a lease of real property is 15% or less of the total rent received under the lease, then the rent attributable to personal property will qualify as rents from real property. However, if the 15% threshold is exceeded, the rent attributable to personal property will not qualify as rents from real property.
- Fourth, the Company generally must not operate or manage its real property or furnish or render services to its tenants, other than through an "independent contractor" who is adequately compensated and from whom the Company does not derive revenue. However, the Company may provide services directly to tenants if the services are "usually or customarily rendered" in connection with the rental of space for occupancy only and are not considered to be provided for the tenants' convenience. In addition, the Company may directly provide a minimal amount of "noncustomary" services to the tenants of a property as long as its income from the services (valued at not less than 150% of the Company's direct cost of performing such services) does not exceed 1% of its income from the related property in which case only the amounts for noncustomary services are not treated as rents from real property. If, however, the gross income from such noncustomary services exceeds this 1% threshold, none of the gross income derived from the relevant property will qualify as rents from real property. Furthermore, the Company may own up to 100% of the stock of a TRS that provides customary and noncustomary services to its tenants without tainting the rental income for the related properties. Refer to the section entitled "—Taxable REIT Subsidiaries."

Unless the Company determines that the resulting non-qualifying income under any of the following circumstances, taken together with all other non-qualifying income earned by it in the taxable year, will not jeopardize its qualification as a REIT, the Company does not intend to:

- derive rental income attributable to personal property other than personal property leased in connection with the lease of real property, the amount of which is less than 15% of the total rent received under the lease;
- rent any property to a related party tenant, including, except with respect to qualified health care properties and qualified lodging facilities, a TRS;
- charge rent for any property that is based in whole or in part on the income or profits of any person, except by reason of being based on a fixed percentage or percentages of receipts or sales, as described above; or
- directly or indirectly perform services considered to be noncustomary or provided for the tenant's convenience other than through a TRS or independent contractor.

**Interest**

The term "interest," as defined for purposes of both gross income tests, generally excludes any amount that is based, in whole or in part, on the income or profits of any person. However, interest generally includes the following:

- an amount that is based on a fixed percentage or percentages of receipts or sales; and
- an amount that is based on the income or profits of a debtor, as long as the debtor derives substantially all of its income from the real property securing the debt from leasing substantially all of its interest in the property and only to the

extent that the amounts received by the debtor would be qualifying “rents from real property” if received directly by a REIT.

If a loan contains a provision that entitles a REIT to a percentage of the borrower’s gain upon the sale of the real property securing the loan or a percentage of the appreciation in the property’s value as of a specific date, income attributable to that loan provision will be treated as gain from the sale of the property securing the loan, which generally is qualifying income for purposes of both gross income tests, provided that the property is not inventory or dealer property in the hands of the borrower or the REIT.

Interest on debt secured by mortgages on real property or on interests in real property (including, in the case of a loan secured by real property and personal property, such personal property to the extent that it does not exceed 15% of the total fair market value of all such property securing the loan), including, for this purpose, prepayment penalties, loan assumption fees and late payment charges that are not compensation for services, generally is qualifying income for purposes of the 75% gross income test. In general, under applicable Treasury Regulations, if a loan is secured by real property and other property and the highest principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property securing the loan determined as of: (i) the date the Company agreed to acquire or originate the loan; or (ii) as discussed further below, in the event of a “significant modification,” the date the Company modified the loan, then a portion of the interest income from such loan will not be qualifying income for purposes of the 75% gross income test, but will be qualifying income for purposes of the 95% gross income test. The portion of the interest income that will not be qualifying income for purposes of the 75% gross income test will be equal to the portion of the principal amount of the loan that is not secured by real property-that is, the amount by which the loan exceeds the value of the real property that is security for the loan. As discussed further below, IRS guidance provides that the Company does not need to redetermine fair market value of the real property securing the loan in connection with a loan modification that is occasioned by a borrower default or made at a time when the Company reasonably believes that the modification to the loan will substantially reduce a significant risk of default on the loan.

The Company invests in loans secured by real property that is under construction or being significantly improved, in which case the value of the real estate that is security for the loan will be the fair market value of the land plus the reasonably estimated cost of the improvements or developments (including, in the case of a loan secured by real property and personal property, such personal property to the extent that it does not exceed 15% of the total fair market value of all such property securing the loan) which will secure the loans and which are to be constructed from proceeds of the loan.

The Company holds certain mezzanine loans and may originate or acquire other mezzanine loans. Mezzanine loans are loans secured by equity interests in an entity that directly or indirectly owns real property, rather than by a direct mortgage of the real property. In Revenue Procedure 2003-65, the IRS established a safe harbor under which loans secured by a first priority security interest in ownership interests in a partnership or limited liability company owning real property will be treated as real estate assets for purposes of the REIT asset tests described below, and interest derived from those loans will be treated as qualifying income for both the 75% and 95% gross income tests, provided several requirements are satisfied.

Although Revenue Procedure 2003-65 provides a safe harbor on which taxpayers may rely, it does not prescribe rules of substantive tax law. Moreover, the Company expects that some of its mezzanine loans may not meet all of the requirements for reliance on the safe harbor. To the extent any mezzanine loans that the Company originates or acquires do not qualify for the safe harbor described above, the interest income from the loans will be qualifying income for purposes of the 95% gross income test, but there is a risk that such interest income will not be qualifying income for purposes of the 75% gross income test. We believe that we currently invest in mezzanine loans, and intend to continue to invest in mezzanine loans, in a manner that will enable us to satisfy the REIT gross income and asset tests.

The Company and its subsidiaries hold certain participation interests, or subordinated mortgage interests, in mortgage loans and mezzanine loans originated by other lenders. A subordinated mortgage interest is an interest created in an underlying loan by virtue of a participation or similar agreement, to which the originator of the loan is a party, along with one or more participants. The borrower on the underlying loan is typically not a party to the participation agreement. The performance of a participant’s investment depends upon the performance of the underlying loan and if the underlying borrower defaults, the participant typically has no recourse against the originator of the loan. The originator often retains a senior position in the underlying loan and grants junior participations, which will be a first loss position in the event of a default by the borrower. The Company expects that its (and its subsidiaries’) participation interests generally will qualify as real estate assets for purposes of the REIT asset tests described below and that interest derived from such investments generally will be treated as qualifying interest for purposes of the 75% gross income test. The appropriate treatment of participation interests for U.S. federal income tax purposes is not entirely certain, however, and no assurance can be given that the IRS will not challenge the Company’s treatment of its participation interests.

Many of the terms of the mortgage loans, mezzanine loans and subordinated mortgage interests and the loans supporting the MBSs that the Company holds or expects to acquire have been modified and may in the future be modified. Under the Code, if the terms of a loan are modified in a manner constituting a "significant modification," such modification triggers a deemed exchange of the original loan for the modified loan. Revenue Procedure 2014-51 provides a safe harbor pursuant to which the Company will not be required to redetermine the fair market value of the real property securing a loan for purposes of the gross income and asset tests in connection with a loan modification that is: (i) occasioned by a borrower default; or (ii) made at a time when the Company reasonably believes that the modification to the loan will substantially reduce a significant risk of default on the original loan. No assurance can be provided that all of the Company's loan modifications will qualify for the safe harbor in Revenue Procedure 2014-51. To the extent the Company significantly modifies loans in a manner that does not qualify for that safe harbor, it will be required to redetermine the value of the real property securing the loan at the time it was significantly modified. In determining the value of the real property securing such a loan, the Company generally will not obtain third-party appraisals but rather will rely on internal valuations. No assurance can be provided that the IRS will not successfully challenge the Company's internal valuations. If the terms of the Company's mortgage loans, mezzanine loans and subordinated mortgage interests and loans supporting its MBSs are significantly modified in a manner that does not qualify for the safe harbor in Revenue Procedure 2014-51 and the fair market value of the real property securing such loans has decreased significantly, the Company could fail the 75% gross income test, the 75% asset test and/or the 10% value test.

The Company and its subsidiaries also hold, and may in the future, acquire distressed mortgage loans. Revenue Procedure 2014-51 provides that the IRS will treat distressed mortgage loans acquired by a REIT that are secured by real property and other property as producing in part non-qualifying income for the 75% gross income test. Specifically, Revenue Procedure 2014-51 indicates that interest income on such a distressed mortgage loan will be treated as qualifying income based on the ratio of: (i) the fair market value of the real property securing the debt determined as of the date the REIT committed to acquire the loan; and (ii) the face amount of the loan (and not the purchase price or current value of the debt). The face amount of a distressed mortgage loan will typically exceed the fair market value of the real property securing the mortgage loan on the date the REIT commits to acquire the loan. It is unclear how the safe harbor in Revenue Procedure 2014-51 is affected by the recent legislative changes regarding the treatment of personal property securing a mortgage loan. The Company intends to invest in distressed mortgage loans in a manner that consistent with qualifying as a REIT.

The Company and its subsidiaries have entered into certain sale and repurchase agreements under which it nominally sells certain mortgage assets to a counterparty and simultaneously enters into an agreement to repurchase the sold assets. Based on positions the IRS has taken in analogous situations, the Company believes that it will be treated for purposes of the REIT gross income and asset tests (refer below to the section entitled "—Asset Tests") as the owner of the mortgage assets that are the subject of any such agreement notwithstanding that record ownership of the assets is transferred to the counterparty during the term of the agreement. It is possible, however, that the IRS could assert that the Company does not own the mortgage assets during the term of the sale and repurchase agreement, in which case its ability to qualify as a REIT could be adversely affected.

The Company may invest in other agency securities that are pass-through certificates. The Company expects that any such agency securities will be treated as either interests in a grantor trust or as interests in a REMIC for U.S. federal income tax purposes and that all interest income from such agency securities will be qualifying income for the 95% gross income test. In the case of agency securities treated as interests in grantor trusts, the Company would be treated as owning an undivided beneficial ownership interest in the mortgage loans held by the grantor trust. The interest on such mortgage loans would be qualifying income for purposes of the 75% gross income test to the extent that such loan is secured by real property, as discussed above. In the case of agency securities treated as interests in a REMIC, income derived from such REMIC interests generally will be treated as qualifying income for purposes of the 75% gross income test. As discussed above, however, if less than 95% of the assets of the REMIC are real estate assets then only a proportionate part of the income derived from the Company's interest in the REMIC will qualify for purposes of the 75% gross income tests. To the extent that a REMIC interest includes an imbedded interest swap or cap contract or other derivative instrument, such derivative instrument could produce non-qualifying income for purposes of the 75% gross income test. The Company expects that substantially all of its income from agency securities will be qualifying income for purposes of the 75% and 95% gross income tests.

**Dividends; Subpart F Income**

The Company's share of any dividends received from any corporation (including any TRS, but excluding any REIT) in which it owns an equity interest will qualify for purposes of the 95% gross income test but not for purposes of the 75% gross income test. The Company's share of any dividends received from any other REIT in which it owns an equity interest, including any subsidiary REIT, will be qualifying income for purposes of both gross income tests.

In addition, the Company may be required to include in gross income its share of "Subpart F income" of one or more foreign (non-U.S.) corporations in which it invests, including its foreign TRSs, regardless of whether it receives distributions from such corporations. Pursuant to Revenue Procedure 2018-48, the Company will treat certain income inclusions received with respect to equity investments in foreign TRSs as qualifying income for purposes of the 95% gross income test but not the 75% gross income test.

**Fee Income**

The Company expects to receive various fees in connection with its operations. Fee income will be qualifying income for purposes of both the 75% and 95% gross income tests if it is received in consideration for entering into an agreement to make a loan secured by mortgages on or interests in real property, and the fees are not determined by the income and profits of any person. Other fees, such as origination and servicing fees, fees for acting as a broker-dealer and fees for managing investments for third parties, are not qualifying income for purposes of either gross income test. Any fees earned by a TRS are not included for purposes of the gross income tests.

**Hedging Transactions**

From time to time, the Company and its subsidiaries expect to enter into hedging transactions with respect to one or more of its assets or liabilities. The Company's hedging activities may include entering into interest rate swaps, caps and floors, options to purchase such items and futures and forward contracts. Income and gain from "qualified hedging transactions" are excluded from gross income for purposes of the 75% and 95% gross income tests. A "qualified hedging transaction" includes: (i) any transaction entered into in the normal course of the Company's trade or business primarily to manage the risk of interest rate, price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, to acquire or carry real estate assets; (ii) any transaction entered into primarily to manage the risk of currency fluctuations with respect to any item of income or gain that would be qualifying income under the 75% or 95% gross income test (or any property which generates such income or gain); and (iii) any transaction entered into to "offset" a transaction described in (i) or (ii) if a portion of the hedged indebtedness is extinguished or the related property disposed of. The Company will be required to clearly identify any such hedging transaction before the close of the day on which it was acquired, originated or entered into and to satisfy other identification requirements in order to be treated as a qualified hedging transaction. The Company intends to structure any hedging transactions in a manner that does not jeopardize its qualification as a REIT.

**COD Income**

From time to time, the Company and its subsidiaries may recognize COD income, in connection with repurchasing debt at a discount. COD income is excluded from gross income for purposes of both the 75% and 95% gross income tests.

**Foreign Currency Gain**

Certain foreign currency gain is excluded from gross income for purposes of one or both of the gross income tests. "Real estate foreign exchange gain" is excluded from gross income for purposes of the 75% gross income test. Real estate foreign exchange gain generally includes foreign currency gain attributable to any item of income or gain that is qualifying income for purposes of the 75% gross income test, foreign currency gain attributable to the acquisition or ownership of (or becoming or being the obligor under) obligations and certain foreign currency gain attributable to certain "qualified business units" of a REIT. "Passive foreign exchange gain" is excluded from gross income for purposes of the 95% gross income test. Passive foreign exchange gain generally includes real estate foreign exchange gain as described above and also includes foreign currency gain attributable to any item of income or gain that is qualifying income for purposes of the 95% gross income test and foreign currency gain attributable to the acquisition or ownership of (or becoming or being the obligor under) obligations secured by mortgages on real property or on interests in real property. Because passive foreign exchange gain includes real estate foreign exchange gain, real estate foreign exchange gain is excluded from gross income for purposes of both the 75% and 95% gross income tests. These exclusions for real estate foreign exchange gain and passive foreign exchange gain do not apply to certain foreign currency gain derived from dealing, or engaging in substantial and regular trading, in securities, which is treated as non-qualifying income for purposes of both the 75% and 95% gross income tests.

**Prohibited Transactions**

A REIT will incur a 100% tax on the net income derived from any sale or other disposition of property, other than foreclosure property, that the REIT holds primarily for sale to customers in the ordinary course of a trade or business. The Company believes that none of its assets are held or will be held primarily for sale to customers and that a sale of any of its assets has not been, and will not be, in the ordinary course of its business. Whether a REIT holds an asset "primarily for sale to customers in the ordinary course of a trade or business" depends, however, on the facts and circumstances in effect from time to time, including those related to a particular asset. A safe harbor to the characterization of the sale of property by a REIT as a prohibited transaction and the 100% prohibited transaction tax is available if the following requirements are met:

- the REIT has held the property for not less than two years;
- the aggregate expenditures made by the REIT, or any partner of the REIT, during the two-year period preceding the date of the sale that are includable in the basis of the property do not exceed 30% of the net selling price of the property;

- either: (i) during the year in question, the REIT did not make more than seven sales of property other than foreclosure property or sales to which Section 1031 or 1033 of the Code applies; (ii) the aggregate adjusted bases of all such properties sold by the REIT during the year did not exceed 10% of the aggregate bases of all of the assets of the REIT at the beginning of the year; (iii) the aggregate fair market value of all such properties sold by the REIT during the year did not exceed 10% of the aggregate fair market value of all of the assets of the REIT at the beginning of the year; (iv)(A) the aggregate adjusted tax bases of all such properties sold by the REIT during the year did not exceed 20% of the aggregate adjusted bases of all property of the REIT at the beginning of the year and (B) the three-year average percentage of properties sold by the REIT compared to all the REIT's properties (measured by adjusted bases) taking into account the current and two prior years did not exceed 10%; or (v)(A) the aggregate fair market value of all such properties sold by the REIT during the year did not exceed 20% of the aggregate fair market value of all property of the REIT at the beginning of the year and (B) the three-year average percentage of properties sold by the REIT compared to all the REIT's properties (measured by fair market value) taking into account the current and two prior years did not exceed 10%;

- in the case of property not acquired through foreclosure or lease termination, the REIT has held the property for at least two years for the production of rental income; and

- if the REIT has made more than seven sales of non-foreclosure property during the taxable year, substantially all of the marketing and development expenditures with respect to the property were made through an independent contractor from whom the REIT derives no income or a TRS.

No assurance can be given that any property that the Company sells will not be treated as property held "primarily for sale to customers in the ordinary course of a trade or business" or that the Company will be able to comply with the safe harbor when disposing of assets. The 100% tax will not apply to gains from the sale of property that is held through a TRS or other taxable corporation, although such income will be taxed to the corporation at regular corporate income tax rates. The Company intends to structure its activities to avoid transactions that would result in a material amount of prohibited transaction tax.

**Foreclosure Property**

The Company will be subject to tax at the maximum corporate rate on any income from foreclosure property, which includes certain foreign currency gains and related deductions recognized, other than income that otherwise would be qualifying income for purposes of the 75% gross income test, less expenses directly connected with the production of that income. However, gross income from foreclosure property will qualify under the 75% and 95% gross income tests. Foreclosure property is any real property, including interests in real property, and any personal property incident to such real property:

- that is acquired by a REIT as the result of the REIT having bid on such property at foreclosure or having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default or default was imminent on a lease of such property or on indebtedness that such property secured;

- for which the related loan was acquired by the REIT at a time when the default was not imminent or anticipated; and

- for which the REIT makes a proper election to treat the property as foreclosure property.

A REIT will not be considered to have foreclosed on a property where the REIT takes control of the property as a mortgagee-in-possession and cannot receive any profit or sustain any loss except as a creditor of the mortgagor. Property generally ceases to be foreclosure property at the end of the third taxable year following the taxable year in which the REIT acquired the property or longer if an extension is granted by the Secretary of the Treasury. However, this grace period terminates and foreclosure property ceases to be foreclosure property on the first day:

- on which a lease is entered into for the property that, by its terms, will give rise to income that does not qualify for purposes of the 75% gross income test, or any amount is received or accrued, directly or indirectly, pursuant to a lease entered into on or after such day that will give rise to income that does not qualify for purposes of the 75% gross income test;

- on which any construction takes place on the property, other than completion of a building or any other improvement, where more than 10% of the construction was completed before default became imminent; or

- which is more than 90 days after the day on which the REIT acquired the property and the property is used in a trade or business which is conducted by the REIT, other than through an independent contractor from whom the REIT itself does not derive or receive any income or a TRS.

The Company may acquire properties as a result of foreclosure or otherwise reducing the property to ownership when default has occurred or is imminent and may make foreclosure property elections with respect to some or all of those properties if such election is available (which may not be the case with respect to acquired "distressed loans").

**Cash/Income Differences/Phantom Income**

Due to the nature of the assets in which the Company invests, the Company may be required to recognize taxable income from those assets in advance of its receipt of cash flow on or proceeds from disposition of such assets, and may be required to report taxable income in early periods that exceeds the economic income ultimately realized on such assets.

The Company may acquire debt instruments in the secondary market for less than their face amount. The amount of such discount generally will be treated as "market discount" for U.S. federal income tax purposes. The Company may elect to include in taxable income accrued market discount as it accrues rather than as it is realized for economic purposes, resulting in phantom income. Principal payments on certain loans are made monthly, and consequently accrued market discount may have to be included in income each month as if the debt instrument were assured of ultimately being collected in full. If the Company collects less on the debt instrument than its purchase price plus the market discount it had previously reported as income, it may not be able to benefit from any offsetting loss deductions.

The Company may acquire MBSs that have been issued with original issue discount. In general, the Company will be required to accrue original issue discount based on the constant yield to maturity of the MBS, and to treat it as taxable income in accordance with applicable U.S. federal income tax rules even though smaller or no cash payments are received on such debt instrument. As in the case of the market discount discussed in the preceding paragraph, the constant yield in question will be determined and the Company will be taxed based on the assumption that all future payments due on the MBS in question will be made. If all payments on the MBSs are not made, the Company may not be able to benefit from any offsetting loss deductions.

In addition, pursuant to its investment strategy, the Company may acquire distressed debt instruments and subsequently modify such instruments by agreement with the borrower. If the amendments to the outstanding debt are "significant modifications" under the applicable Treasury Regulations, the modified debt may be considered to have been reissued to the Company in a debt-for-debt exchange with the borrower. In that event, the Company may be required to recognize income to the extent the principal amount of the modified debt exceeds its adjusted tax basis in the unmodified debt, and would hold the modified loan with a cost basis equal to its principal amount for U.S. federal tax purposes. To the extent that such modifications are made with respect to a debt instrument held by a TRS treated as a dealer, as described above, such a TRS would be required at the end of each taxable year, including the taxable year in which such modification was made, to mark the modified debt instrument to its fair market value as if the debt instrument were sold. In that case, the TRS generally would recognize a loss at the end of the taxable year in which the modifications were made to the extent the fair market value of such debt instrument were less than its principal amount after the modification.

In addition, in the event that any debt instruments or MBSs acquired by the Company are delinquent as to mandatory principal and interest payments, or in the event payments with respect to a particular debt instrument are not made when due, the Company may nonetheless be required to continue to recognize the unpaid interest as taxable income. Similarly, the Company may be required to accrue interest income with respect to subordinate MBSs at the stated rate regardless of whether corresponding cash payments are received.

The Company may also be required under the terms of indebtedness that it incurs to private lenders or otherwise to use cash received from interest payments to make principal payments on that indebtedness, with the effect of recognizing income but not having a corresponding amount of cash available for distribution to holders of its securities.

Due to each of these potential timing differences between income recognition or expense deduction and cash receipts or disbursements, there is a significant risk that the Company may have substantial taxable income in excess of cash available for distribution. In that event, the Company may need to borrow funds or take other action to satisfy the REIT distribution requirements for the taxable year in which this "phantom income" is recognized. Refer below to the section entitled "—Distribution Requirements."

**Failure to Satisfy the Gross Income Tests**

If the Company fails to satisfy one or both of the gross income tests for any taxable year, it nevertheless may qualify as a REIT for that year if it qualifies for relief under certain provisions of the U.S. federal income tax laws. Those relief provisions are available if:

- the Company's failure to meet those tests is due to reasonable cause and not to willful neglect; and
- following such failure for any taxable year, the Company files a schedule of the sources of its income with the IRS.

The Company cannot predict, however, whether in all circumstances it would qualify for the relief provisions. In addition, as discussed above in the section entitled "—Taxation of BrightSpire Capital, Inc." even if the relief provisions apply, the Company would incur a 100% tax on the gross income attributable to the greater of the amount by which it fails the 75% or 95% gross income test, in each case, multiplied by a fraction intended to reflect its profitability.

**Asset Tests**

To qualify as a REIT, the Company also must satisfy the following asset tests at the end of each quarter of each taxable year. First, at least 75% of the value of its total assets must consist of:

- cash or cash items, including certain receivables and money market funds;
- government securities;
- interests in real property, including leaseholds, options to acquire real property and leaseholds, and personal property to the extent such personal property is leased in connection with real property and rents attributable to such personal property are treated as "rents from real property";
- interests in mortgage loans secured by real property;
- stock in other REITs and debt instruments issued by "publicly offered REITs";
- investments in stock or debt instruments during the one-year period following the Company's receipt of new capital that it raises through equity offerings or public offerings of debt with at least a five-year term; and
- regular or residual interests in a REMIC. However, if less than 95% of the assets of a REMIC consist of assets that are qualifying real estate-related assets under the U.S. federal income tax laws, determined as if the Company held such assets, the Company will be treated as holding directly its proportionate share of the assets of such REMIC.

Second, of the Company's investments not included in the 75% asset class, the value of its interest in any one issuer's securities may not exceed 5% of the value of its total assets, or the 5% asset test.

Third, of the Company's investments not included in the 75% asset class, it may not own more than 10% of the voting power or value of any one issuer's outstanding securities, or the 10% vote or value test.

Fourth, no more than 20% of the value of the Company's total assets may consist of the securities of one or more TRSs.

Fifth, no more than 25% of the value of the Company's total assets may consist of securities that are not qualifying assets for purposes of the 75% asset test described above, or the 25% securities test.

Sixth, no more than 25% of the value of the Company's total assets may consist of debt instruments issued by "publicly offered REITs" to the extent such debt instruments are not secured by real property or interests in real property.

For purposes of the 5% asset test, the 10% vote or value test and the 25% securities test, the term "securities" does not include stock in another REIT, debt of a "publicly offered REIT," equity or debt securities of a QRS or, in the case of the 5% asset test and 10% vote or value test, TRS debt or equity, mortgage loans or MBSs that constitute real estate assets, or equity interests in a partnership. The term "securities," however, generally includes debt securities issued by a partnership or another REIT (other than a "publicly offered REIT"), except, for purposes of the 10% value test, the term "securities" does not include:

- "Straight debt" securities, which is defined as a written unconditional promise to pay on demand or on a specified date a sum certain in money if: (i) the debt is not convertible, directly or indirectly, into equity; and (ii) the interest rate and interest payment dates are not contingent on profits, the borrower's discretion, or similar factors. "Straight debt" securities do not include any securities issued by a partnership or a corporation in which the Company or any TRS in which the Company owns more than 50% of the voting power or value of the shares hold non-"straight debt" securities that have an aggregate value of more than 1% of the issuer's outstanding securities. However, "straight debt" securities include debt subject to the following contingencies:
    - a contingency relating to the time of payment of interest or principal, as long as either: (i) there is no change to the effective yield of the debt obligation, other than a change to the annual yield that does not exceed the greater of 0.25% or 5% of the annual yield; or (ii) neither the aggregate issue price nor the aggregate face amount of the issuer's debt obligations held by the Company exceeds $1 million and no more than 12 months of unaccrued interest on the debt obligations can be required to be prepaid; and
    - a contingency relating to the time or amount of payment upon a default or prepayment of a debt obligation, as long as the contingency is consistent with customary commercial practice.

- Any loan to an individual or an estate;
- Any "section 467 rental agreement" other than an agreement with a related party tenant;
- Any obligation to pay "rents from real property";
- Certain securities issued by governmental entities;
- Any security issued by a REIT;
- Any debt instrument issued by an entity treated as a partnership for U.S. federal income tax purposes in which the Company is a partner to the extent of its proportionate interest in the equity and debt securities of the partnership; and
- Any debt instrument issued by an entity treated as a partnership for U.S. federal income tax purposes not described in the preceding bullet points if at least 75% of the partnership's gross income, excluding income from prohibited transactions, is qualifying income for purposes of the 75% gross income test described above in the section entitled "—Gross Income Tests."

For purposes of the 10% value test, the Company's proportionate share of the assets of a partnership is its proportionate interest in any securities issued by the partnership, without regard to the securities described in the last two bullet points above.

The Company's holdings of securities and other assets have complied, and will continue to comply, with the foregoing asset tests, and the Company intends to monitor its compliance on an ongoing basis. However, independent appraisals have not been obtained to support the Company's conclusions as to the value of its assets or the value of any particular security or securities. Moreover, values of some assets, including instruments issued in collateralized debt obligation transactions, may not be susceptible to a precise determination, and values are subject to change in the future.

Furthermore, the proper classification of an instrument as debt or equity for U.S. federal income tax purposes may be uncertain in some circumstances, which could affect the application of the asset tests. Accordingly, there can be no assurance that the IRS will not contend that the Company's interests in its subsidiaries or in the securities of other issuers will not cause a violation of the asset tests.

As described above, Revenue Procedure 2003-65 provides a safe harbor pursuant to which certain mezzanine loans secured by a first priority security interest in ownership interests in a partnership or limited liability company will be treated as qualifying assets for purposes of the 75% asset test (and therefore, are not subject to the 5% asset test and the 10% vote or value test). Refer to the section entitled "—Gross Income Tests." The Company expects that some of its mezzanine loans may not qualify for that safe harbor. To the extent that the Company determines that a mezzanine loan likely would not qualify for the safe harbor and also would not be excluded from the definition of securities for purposes of the 10% vote or value test or could cause the Company not to satisfy the 75% or 5% assets tests, it would hold that mezzanine loan through a TRS.

The Company owns stock in several REITs and expects to invest in the stock of other entities that intend to qualify as REITs in the future. The Company believes that any stock that it has acquired or will acquire in other REITs has been, or will be, qualifying assets for purposes of the 75% asset test. If a REIT in which the Company owns stock fails to qualify as a REIT in any year, however, the stock in such REIT will not be a qualifying asset for purposes of the 75% asset test. Instead, the Company would be subject to the 5% asset test, the 10% vote or value test and the 25% securities test described above with respect to its investment in such a disqualified REIT. Consequently, if a REIT in which the Company owns stock fails to qualify as a REIT, the Company could fail one or more of the asset tests described above. To the extent the Company invests in other REITs, it intends to do so in a manner that will enable it to continue to satisfy the REIT asset tests.

As discussed above in the section entitled "—Gross Income Tests," the Company and its subsidiaries may invest in distressed mortgage loans. In general, under the applicable Treasury Regulations, if a loan is secured by real property and other property and the highest principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property securing the loan as of: (i) the date the Company agreed to acquire or originate the loan; or (ii) in the event of a significant modification, the date the Company modified the loan, then a portion of the interest income from such a loan will not be qualifying income for purposes of the 75% gross income test but will be qualifying income for purposes of the 95% gross income test. Although the law is not entirely clear, a portion of the loan will also likely be a non-qualifying asset for purposes of the 75% asset test. The non-qualifying portion of such a loan would be subject to, among other requirements, the 10% vote or value test. IRS Revenue Procedure 2014-51 provides a safe harbor under which the IRS has stated that it will not challenge a REIT's treatment of a loan as being, in part, a qualifying real estate asset in an amount equal to the lesser of: (i) the fair market value of the loan on the relevant quarterly REIT asset testing date; or (ii) the greater of (A) the fair market value of the real property securing the loan on the relevant quarterly REIT asset testing date or (B) the fair market value of the real property securing the loan determined as of the date the REIT committed to originate or acquire the loan. It is unclear how the safe harbor in Revenue Procedure 2014-51 is affected by the recent legislative changes regarding the treatment of loans secured by both real property and personal property where the fair market value of the personal property does not exceed 15% of the sum of the fair market values of the real property and the personal property securing the loan. There can be no assurance that later interpretations of or any clarifications to this Revenue Procedure will be consistent with how the Company currently is applying it to its REIT compliance analysis. The Company intends to invest in distressed mortgage loans in a manner consistent with qualifying as a REIT.

Also as discussed above, the Company intends to invest in agency securities that are pass-through certificates. The Company expects that the agency securities will be treated either as interests in grantor trusts or as interests in REMICs for U.S. federal income tax purposes. In the case of agency securities treated as interests in grantor trusts, the Company would be treated as owning an undivided beneficial ownership interest in the mortgage loans held by the grantor trust. Such mortgage loans generally will qualify as real estate assets to the extent that they are secured by real property. The Company expects that substantially all of its agency securities treated as interests in a grantor trust will qualify as real estate assets. In the case of agency securities treated as interests in a REMIC, such interests generally will qualify as real estate assets. If less than 95% of the assets of a REMIC are real estate assets, however, then only a proportionate part of the Company's interest in the REMIC will qualify as a real estate asset. To the extent that the Company holds mortgage participations or MBSs that do not represent interests in a grantor trust or REMIC interests, such assets may not qualify as real estate assets depending upon the circumstances and the specific structure of the investment.

**Failure to Satisfy the Asset Tests**

The Company has monitored, and will continue to monitor, the status of its assets for purposes of the various asset tests. If the Company fails to satisfy the asset tests at the end of a calendar quarter, it will not lose its REIT qualification if:

- the Company satisfied the asset tests at the end of the preceding calendar quarter; and
- the discrepancy between the value of the Company's assets and the asset test requirements arose from changes in the market values of its assets and was not wholly or partly caused by the acquisition of one or more non-qualifying assets.

If the Company does not satisfy the condition described in the second item, above, it still could avoid disqualification by eliminating any discrepancy within 30 days after the close of the calendar quarter in which it arose.

If at the end of any calendar quarter the Company violates the 5% asset test or the 10% vote or value test described above, it will not lose its REIT qualification if: (i) the failure is de minimis (up to the lesser of 1% of its assets or $10 million); and (ii) it disposes of assets causing the failure or otherwise complies with the asset tests within six months after the last day of the quarter in which it identifies such failure. In the event of a failure of any of the asset tests (other than de minimis failures described in the preceding sentence), as long as the failure was due to reasonable cause and not to willful neglect, the Company will not lose its REIT status if it: (i) disposes of assets or otherwise complies with the asset tests within six months after the last day of the quarter in which it identifies the failure; (ii) it files a description of each asset causing the failure with the IRS; and (iii) pays a tax equal to the greater of $50,000 or 35% of the net income from the non-qualifying assets during the period in which the Company failed to satisfy the asset tests.

**Distribution Requirements**

Each taxable year, the Company must distribute dividends, other than capital gain dividends and deemed distributions of retained capital gain, to our holders in an aggregate amount at least equal to the sum of:

- 90% of its "REIT taxable income," computed without regard to the dividends paid-deduction and its net capital gain or loss; and
- 90% of its after-tax net income, if any, from foreclosure property; minus
- the sum of certain items of non-cash income.

Generally, the Company must pay such distributions in the taxable year to which they relate, or in the following taxable year if: (i) the Company declares the distribution before it timely files its U.S. federal income tax return for the year and pays the distribution on or before the first regular dividend payment date after such declaration; or (ii) the Company declares the distribution in October, November or December of the taxable year, payable to holders of record on a specified day in any such month, and it actually pays the dividend before the end of January of the following year. The distributions under clause (i) are taxable to the holders in the year in which paid and the distributions in clause (ii) are treated as paid on December 31 of the prior taxable year in which they were declared. In both instances, these distributions relate to the Company's prior taxable year for purposes of the 90% distribution requirement.

Unless the Company qualifies as a "publicly offered REIT," in order for its distributions to be counted as satisfying the annual distribution requirement for REITs and to provide it with the REIT-level tax deduction, such distributions must not have been "preferential dividends." A dividend is not a preferential dividend if that distribution is: (i) pro rata among all outstanding shares within a particular class; and (ii) in accordance with the preferences among different classes of stock as set forth in the Company's organizational documents. The Company believes that it qualifies as "publicly offered REIT," and so long as it qualifies as a "publicly offered REIT," the preferential dividend rule will not apply to it.

The Company will pay U.S. federal income tax on taxable income, including net capital gain, that it does not distribute to holders. Furthermore, if the Company fails to distribute during a calendar year, or by the end of January following the calendar year in the case of distributions with declaration and record dates falling in the last three months of the calendar year, at least the sum of:

- 85% of its REIT ordinary income for such year;
- 95% of its REIT capital gain income for such year; and
- any undistributed taxable income from prior periods,

The Company will incur a 4% nondeductible excise tax on the excess of such required distribution over the amounts it actually distributes and the amounts of income retained on which the Company has paid corporate income tax.

The Company may elect to retain and pay income tax on the net long-term capital gain it receives in a taxable year. If the Company so elects, it will be treated as having distributed any such retained amount for purposes of the 4% nondeductible excise tax described above. The Company intends to make timely distributions sufficient to satisfy the annual distribution requirements and to avoid corporate income tax and the 4% nondeductible excise tax.

It is possible that, from time to time, the Company may experience timing differences between the actual receipt of income and/or payment of deductible expenses and the inclusion of that income or deduction in arriving at its REIT taxable income. Refer to, for example, the discussion of excess inclusion income above in the section entitled "—Requirements for Qualification—Taxable Mortgage Pools." Other potential sources of non-cash taxable income include gain recognized on the deemed exchange of distressed debt that has been modified, real estate and securities that have been financed through securitization structures, such as the collateralized debt obligation structure, which require some or all of available cash flow to be used to service borrowings, loans or MBSs that the Company holds that have been issued at a discount and require the accrual of taxable economic interest in advance of its receipt in cash and distressed loans on which the Company may be required to accrue taxable interest income even though the borrower is unable to make current servicing payments in cash. Furthermore, under Section 451 of the Code, subject to certain exceptions, the Company must accrue income for U.S. federal income tax purposes no later than when such income is taken into account as revenue in our financial statements, which could create additional differences between REIT taxable income and the receipt of cash attributable to such income. In addition, Section 162(m) of the Code places a per-employee limit of $1 million on the amount of compensation that a publicly held corporation may deduct in any one year with respect to its chief executive officer, chief financial officer and certain other highly compensated executive officers. Recent changes to Section 162(m) expanded the individuals covered by Section 162(m)'s limits and eliminated an exception that formerly permitted certain performance-based compensation to be deducted even if in excess of $1 million, which may have the effect of increasing our REIT taxable income, and recently proposed regulations under Section 162(m) provide that, contrary to certain prior private letter rulings previously issued by the IRS to several UPREITs, compensation subject to the Section 162(m) limit includes a publicly held corporation's distributive share of a partnership's deduction for any compensation the partnership pays for services performed by a covered employee of the publicly held corporation, which may also have the effect of increasing our REIT taxable income. In the event that such timing differences occur, it might be necessary to arrange borrowings or other means of raising capital to meet the distribution requirements. Additionally, the Company may, if possible, pay taxable dividends of our stock or debt to meet the distribution requirements.

On August 11, 2017, the IRS issued Revenue Procedure 2017-45, authorizing elective stock dividends to be made by public REITs. Pursuant to this revenue procedure, effective for distributions declared on or after August 11, 2017, the IRS will treat the distribution of stock pursuant to an elective stock dividend as a distribution of property under Section 301 of the Code (i.e., as a dividend to the extent of our earnings and profits), as long as at least 20% of the total dividend is available in cash and certain other requirements outlined in the revenue procedure are met.

Under certain circumstances, the Company may be able to correct a failure to meet the distribution requirement for a year by paying "deficiency dividends" to our holders in a later year. The Company may include such deficiency dividends in its deduction for dividends paid for the earlier year. Although the Company may be able to avoid income tax on amounts distributed as deficiency dividends, it will be required to pay interest to the IRS based upon the amount of any deduction it takes for deficiency dividends.

In addition, a REIT is required to distribute all accumulated earnings and profits attributable to non-REIT years by the close of its first taxable year in which it has non-REIT earnings and profits to distribute.

**Interest Deduction Limitation**

Commencing in taxable years beginning after December 31, 2017, Section 163(j) of the Code limits the deductibility of net interest expense paid or accrued on debt properly allocable to a trade or business to 30% of "adjusted taxable income," subject to certain exceptions. Any deduction in excess of the limitation is carried forward and may be used in a subsequent year, subject to the 30% limitation. Adjusted taxable income is determined without regard to certain deductions, including those for net interest expense, net operating loss carryforwards and, for taxable years beginning before January 1, 2022, depreciation, amortization and depletion. Provided the taxpayer makes a timely election (which is irrevocable), the 30% limitation does not apply to a trade or business involving real property development, redevelopment, construction, reconstruction, rental, operation, acquisition, conversion, disposition, management, leasing or brokerage, within the meaning of Section 469(c)(7)(C) of the Code. If this election is made, depreciable real property (including certain improvements) held by the relevant trade or business must be depreciated under the alternative depreciation system under the Code, which is generally less favorable than the generally applicable system of depreciation under the Code. If we do not make the election or if the election is determined not to be available with respect to all or certain of our business activities, this interest deduction limitation could result in us having more REIT taxable income and thus increase the amount of distributions we must make to comply with the REIT requirements and avoid incurring corporate level tax. Similarly, the limitation could cause our TRSs to have greater taxable income and thus potentially greater corporate tax liability.

**Recordkeeping Requirements**

The Company is required to maintain certain records under the REIT rules. In addition, to avoid a monetary penalty, the Company must request on an annual basis information from our holders designed to disclose the actual ownership of its outstanding shares of beneficial interest. The Company intends to continue to comply with these requirements.

**Foreign Investments**

The Company and its subsidiaries have acquired, and expect to acquire in the future, investments in foreign countries that will require it to pay taxes to foreign countries. Taxes that the Company pays in foreign jurisdictions may not be passed through to, or used by, our holders as a foreign tax credit or otherwise. The Company could be subject to U.S. federal income tax rules intended to prevent or minimize the value of the deferral of the recognition by it of passive-type income of foreign entities in which it owns a direct or indirect interest. As a result, the Company could be required to recognize taxable income for U.S. federal income tax purposes prior to receiving cash distributions with respect to that income or, in certain circumstances, pay an interest charge on U.S. federal income tax that it is deemed to have deferred. The Company's foreign investments might also generate foreign currency gains and losses. Certain foreign currency gains may be excluded from gross income for purposes of one or both of the gross income tests, as discussed above. Refer above to the section entitled "—Requirements for Qualification—Gross Income Tests."

**Failure to Qualify**

If the Company fails to satisfy one or more requirements for REIT qualification, other than the gross income tests and the asset tests, it could avoid disqualification if its failure is due to reasonable cause and not to willful neglect and the Company pays a penalty of $50,000 for each such failure. In addition, there are relief provisions for a failure of the gross income tests and asset tests, as described in the sections entitled "—Gross Income Tests—Failure to Satisfy the Gross Income Tests" and "—Asset Tests—Failure to Satisfy the Asset Tests."

If the Company fails to qualify as a REIT in any taxable year, and no relief provision applies, it would be subject to U.S. federal income tax on its taxable income at regular corporate rates. In calculating its taxable income in a year in which it fails to qualify as a REIT, the Company would not be able to deduct amounts paid out to holders. In fact, the Company would not be required to distribute any amounts to holders in that year. In such event, to the extent of the Company's current and accumulated earnings and profits, distributions to most holders taxed at individual rates would generally be taxable at capital gains tax rates. For taxable years beginning after December 31, 2017, and before January 1, 2026, generally U.S. holders that are individuals, trusts or estates may deduct 20% of the aggregate amount of ordinary dividends distributed by us, subject to certain limitations. Alternatively, such dividends paid to U.S. holders that are individuals, trusts and estates may be taxable at the preferential income tax rates (i.e., the 20% maximum U.S. federal rate) for qualified dividends. In addition, subject to the limitations of the Code, corporate distributees may be eligible for the dividends-received deduction.

Unless the Company qualified for relief under specific statutory provisions, it also would be disqualified from taxation as a REIT for the four taxable years following the year during which it ceased to qualify as a REIT. The Company cannot predict whether in all circumstances it would qualify for such statutory relief.

**Taxation of Holders of Class A Common Stock**

**Taxation of Taxable U.S. Holders.**

The following is a summary of certain U.S. federal income tax considerations related to the ownership and disposition of stock applicable to U.S. holders**.**

**Taxation of U.S. Holders on Distributions on Our Stock**

As long as the Company qualifies as a REIT, a taxable U.S. holder must generally take into account as ordinary income distributions made out of the Company's current or accumulated earnings and profits that the Company does not designate as capital gain dividends or retained long-term capital gain. However, for tax years prior to 2026, generally U.S. holders that are individuals, trusts or estates may deduct 20% of the aggregate amount of ordinary dividends distributed by us, subject to certain limitations. For purposes of determining whether a distribution is made out of its current or accumulated earnings and profits, the Company's earnings and profits will be allocated first to its preferred stock dividends and then to its common stock dividends.

Dividends paid to U.S. holders will not qualify for the dividends-received deduction generally available to corporations. In addition, dividends paid to a U.S. holder generally will not qualify for the 20% tax rate for qualified dividend income. The maximum tax rate for qualified dividend income is 20%. Qualified dividend income generally includes dividends paid to U.S. holders taxed at individual rates by domestic C corporations and certain qualified foreign corporations. Because the Company will not generally be subject to U.S. federal income tax on the portion of its REIT taxable income distributed to our holders (refer above to the section entitled "—Taxation of BrightSpire Capital, Inc."), its dividends generally will not be eligible for the 20% rate on qualified dividend income. As a result, the Company's ordinary REIT dividends will be taxed at the higher tax rate applicable to ordinary income, which is currently a maximum rate of 37%. However, the 20% tax rate for qualified dividend income will apply to the Company's ordinary REIT dividends to the extent attributable: (i) to income retained by it in a prior non-REIT taxable year in which it or a predecessor was subject to corporate income tax (less the amount of tax); (ii) to dividends received by it from non-REIT corporations, such as domestic TRSs; and (iii) to the extent attributable to income upon which it has paid corporate income tax (e.g., to the extent that the Company distributes less than 100% of its net taxable income). In general, to qualify for the reduced tax rate on qualified dividend income, a holder must hold our stock for more than 60 days during the 121-day period beginning on the date that is 60 days before the date on which our stock becomes ex-dividend. In addition, dividends paid to certain individuals, trusts and estates whose income exceeds certain thresholds are subject to a 3.8% Medicare tax.

A U.S. holder generally will take into account as long-term capital gain any distributions that the Company designates as capital gain dividends without regard to the period for which the U.S. holder has held our stock. The Company generally will designate its capital gain dividends as either 20% or 25% rate distributions. Refer below to the section entitled "—Capital Gains and Losses." A corporate U.S. holder, however, may be required to treat up to 20% of certain capital gain dividends as ordinary income.

The Company may elect to retain and pay income tax on the net long-term capital gain that it receives in a taxable year. In that case, to the extent that the Company designates such amount in a timely notice to such holder, a U.S. holder would be treated as receiving its proportionate share of the Company's undistributed long-term capital gain and would receive a credit for its proportionate share of the tax the Company paid. The U.S. holder would increase the basis in its stock by the amount of its proportionate share of the Company's undistributed long-term capital gain, minus its share of the tax the Company paid.

To the extent that the Company makes a distribution in excess of its current and accumulated earnings and profits, such distribution will not be taxable to a U.S. holder to the extent that it does not exceed the adjusted tax basis of the U.S. holder's stock. Instead, such distribution will reduce the adjusted tax basis of such stock. To the extent that the Company makes a distribution in excess of both its current and accumulated earnings and profits and the U.S. holder's adjusted tax basis in its stock, such holder will recognize long-term capital gain or short-term capital gain if the stock has been held for one year or less, assuming the stock is a capital asset in the hands of the U.S. holder. In addition, if the Company declares a distribution in October, November or December of any year that is payable to a U.S. holder of record on a specified date in any such month, such distribution shall be treated as both paid by the Company and received by the U.S. holder on December 31 of such year, provided that the Company actually pays the distribution during January of the following calendar year.

Holders may not include in their individual income tax returns any of the Company's net operating losses or capital losses. Instead, the Company would carry over such losses for potential offset against the Company's future income. Under Section 172 of the Code, the Company's deduction for any net operating loss carryforwards arising from losses it sustains in taxable years beginning after December 31, 2017, is limited to 80% of its REIT taxable income (determined without regard to the deduction for dividends paid), and any unused portion of losses arising in taxable years ending after December 31, 2017, may not be carried back, but may be carried forward indefinitely.

Taxable distributions from the Company and gain from the disposition of our stock will not be treated as passive activity income, and, therefore, holders generally will not be able to apply any “passive activity losses,” such as losses from certain types of limited partnerships in which the holder is a limited partner, against such income. In addition, taxable distributions from the Company and gain from the disposition of our stock generally may be treated as investment income for purposes of the investment interest limitations (although any capital gains so treated will not qualify for the lower 20% tax rate applicable to capital gains of U.S. holders taxed at individual rates). The Company will notify holders after the close of the Company’s taxable year as to the portions of its distributions attributable to that year that constitute ordinary income, return of capital and capital gain.

If excess inclusion income from a TMP or REMIC residual interest is allocated to any U.S. holder, that income will be taxable in the hands of the U.S. holder and would not be offset by any net operating losses of the U.S. holder that would otherwise be available. Refer to the section entitled “—Requirements for Qualification—Taxable Mortgage Pools.” As required by IRS guidance, the Company intends to notify its U.S. holders if a portion of a dividend paid by it is attributable to excess inclusion income.

**Taxation of U.S. Holders on the Disposition of BrightSpire Capital, Inc.’s Stock**

In general, a U.S. holder will realize gain or loss upon the sale, redemption or other taxable disposition of our stock in an amount equal to the difference between the sum of the fair market value of any property and the amount of cash received in such disposition and the U.S. holder’s adjusted tax basis in the common stock at the time of the disposition. In general, a U.S. holder who is not a dealer in securities must treat any gain or loss realized upon a taxable disposition of our stock as long-term capital gain or loss if the U.S. holder has held the stock for more than one year and otherwise as short-term capital gain or loss. However, a U.S. holder must treat any loss upon a sale or exchange of stock held by such holder for six months or less as a long-term capital loss to the extent of any actual or deemed distributions from the Company that such U.S. holder previously has characterized as long-term capital gain. All or a portion of any loss that a U.S. holder realizes upon a taxable disposition of the stock may be disallowed if the U.S. holder purchases other substantially identical shares of our stock within 30 days before or after the disposition (in which case, the basis of the shares acquired would be adjusted to reflect the disallowed loss).

**Capital Gains and Losses**

A taxpayer generally must hold a capital asset for more than one year for gain or loss derived from its sale or exchange to be treated as long-term capital gain or loss. The highest marginal individual income tax rate is currently 37%. However, the maximum tax rate on long-term capital gain applicable to U.S. holders taxed at individual rates is 20%. The maximum tax rate on long-term capital gain from the sale or exchange of “Section 1250 property,” or depreciable real property, is 25% computed on the lesser of the total amount of the gain or the accumulated Section 1250 depreciation. In addition, capital gains recognized by certain individuals, trusts and estates whose income exceeds certain thresholds are subject to a 3.8% Medicare tax. With respect to distributions that the Company designates as capital gain dividends and any retained capital gain that it is deemed to distribute, the Company generally may designate whether such a distribution is taxable to its U.S. holders taxed at individual rates at a 20% or 25% rate. Thus, the tax rate differential between capital gain and ordinary income for those taxpayers may be significant. In addition, the characterization of income as capital gain or ordinary income may affect the deductibility of capital losses. A non-corporate taxpayer may deduct capital losses not offset by capital gains against its ordinary income only up to a maximum annual amount of $3,000. A non-corporate taxpayer may carry forward unused capital losses indefinitely. A corporate taxpayer must pay tax on its net capital gain at ordinary corporate rates. A corporate taxpayer may deduct capital losses only to the extent of capital gains, with unused losses being carried back three years and forward five years.

**Expansion of Medicare Tax**

The Health Care and Reconciliation Act of 2010 requires that, in certain circumstances, certain U.S. holders that are individuals, estates, and trusts pay a 3.8% tax on “net investment income,” which includes, among other things, dividends on and gains from the sale or other disposition of REIT shares. The temporary 20% deduction allowed by Section 199A of the Code with respect to ordinary REIT dividends received by non-corporate taxpayers is allowed only for purposes of Chapter 1 of the Code and thus is apparently not allowed as a deduction allocable to such dividends for purposes of determining the amount of net investment income subject to the 3.8% Medicare tax, which is imposed under Chapter 2A of the Code. Prospective investors should consult their own tax advisors regarding this legislation.

**Taxation of Tax-Exempt Holders**

Tax-exempt entities, including qualified employee pension and profit-sharing trusts and individual retirement accounts and annuities, generally are exempt from U.S. federal income taxation. However, they are subject to taxation on their unrelated business taxable income, or UBTI. While many investments in real estate generate UBTI, the IRS has issued a published ruling that dividend distributions from a REIT to an exempt employee pension trust do not constitute UBTI, provided that the exempt employee pension trust does not otherwise use the shares of the REIT in an unrelated trade or business of the pension trust.

Based on that ruling, amounts that the Company distributes to tax-exempt holders generally should not constitute UBTI. However, if a tax-exempt holder were to finance its investment in our stock with debt, a portion of the income that it receives from the Company would constitute UBTI pursuant to the "debt-financed property" rules. In addition, the Company's dividends that are attributable to excess inclusion income will constitute UBTI in the hands of most tax-exempt holders. Refer to the section entitled "— Requirements for Qualification—Taxable Mortgage Pools." Furthermore, social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts and qualified group legal services plans that are exempt from taxation under special provisions of the U.S. federal income tax laws are subject to different UBTI rules, which generally will require them to characterize distributions that they receive from the Company as UBTI. Finally, in certain circumstances, a qualified employee pension or profit-sharing trust that owns more than 10% of our stock is required to treat a percentage of the dividends that it receives from the Company as UBTI if the Company is a "pension-held REIT." Such percentage is equal to the gross income that the Company derives from an unrelated trade or business, determined as if the Company were a pension trust, divided by the Company's total gross income for the year in which the Company pays the dividends. That rule applies to a pension trust holding more than 10% of our stock only if:

- the percentage of the Company's dividends that the tax-exempt trust would be required to treat as UBTI is at least 5%;
- the Company qualifies as a REIT by reason of the modification of the rule requiring that no more than 50% of our stock be owned by five or fewer individuals that allows the beneficiaries of the pension trust to be treated as holding our stock in proportion to its actuarial interests in the pension trust (refer to the section entitled "—Requirements for Qualification"); and
- either: (i) one pension trust owns more than 25% of the value of our stock; or (ii) a group of pension trusts individually holding more than 10% of the value of our stock collectively owns more than 50% of the value of our stock.

**Taxation of Non-U.S. Holders**

The rules governing U.S. federal income taxation of non-U.S. holders of stock are complex. This section is only a summary of such rules. Non-U.S. holders are urged to consult their tax advisors to determine the impact of U.S. federal, state, local and foreign income tax laws on the ownership of our stock, including any reporting requirements.

A non-U.S. holder that receives a distribution that is not attributable to gain from the Company's sale or exchange of a United States Real Property Interests, or USRPI, and that the Company does not designate as a capital gain dividend or retained capital gain, will recognize ordinary income to the extent that the Company pays such distribution out of its current or accumulated earnings and profits. A withholding tax equal to 30% of the gross amount of the distribution ordinarily will apply to such distribution unless an applicable tax treaty reduces or eliminates the tax. The Company's dividends that are attributable to excess inclusion income will be subject to the 30% withholding tax, without reduction for any otherwise applicable income tax treaty. Refer to the section entitled "—Requirements for Qualification—Taxable Mortgage Pools." If a distribution is treated as effectively connected with the non-U.S. holder's conduct of a U.S. trade or business, the non-U.S. holder generally will be subject to U.S. federal income tax on the distribution at graduated rates, in the same manner as U.S. holders are taxed with respect to such distribution, and a non-U.S. holder that is a corporation also may be subject to the 30% branch profits tax with respect to the distribution. The Company plans to withhold U.S. income tax at the rate of 30% on the gross amount of any such distribution paid to a non-U.S. holder unless either:

- a lower treaty rate applies and the non-U.S. holder provides an IRS Form W-8BEN or W-8BEN-E to the Company evidencing eligibility for that reduced rate; or
- the non-U.S. holder files an IRS Form W-8ECI with the Company claiming that the distribution is effectively connected income.

A non-U.S. holder will not incur tax on a distribution in excess of the Company's current and accumulated earnings and profits if the excess portion of such distribution does not exceed the holder's adjusted basis of its stock. Instead, the excess portion of such distribution will reduce the adjusted basis of such stock. A non-U.S. holder will be subject to tax on a distribution that exceeds both the Company's current and accumulated earnings and profits and the holder's adjusted basis of its stock, if the non-U.S. holder otherwise would be subject to tax on gain from the sale or disposition of its stock, as described below. Because the Company generally cannot determine at the time it makes a distribution whether the distribution will exceed its current and accumulated earnings and profits, the Company normally will withhold tax on the entire amount of any distribution at the same rate as it would withhold on a dividend. However, a non-U.S. holder may claim a refund of amounts that the Company withholds if the Company later determines that a distribution in fact exceeded the Company's current and accumulated earnings and profits.

If the Company is treated as a "United States real property holding corporation," as described below, it will be required to withhold 15% of any distribution that exceeds its current and accumulated earnings and profits. Consequently, although the

Company intends to withhold at a rate of 30% on the entire amount of any distribution, to the extent that it does not do so, the Company may withhold at a rate of 15% on any portion of a distribution not subject to withholding at a rate of 30%.

For any year in which the Company qualifies as a REIT, a non-U.S. holder will incur tax on distributions that are attributable to gain from the Company's sale or exchange of a USRPI under Foreign Investment in Real Property, or FIRPTA. A USRPI includes certain interests in real property and stock in "United States real property holding corporations," which are corporations at least 50% of whose assets consist of interests in real property. Under FIRPTA, a non-U.S. holder is taxed on distributions attributable to gain from sales of USRPIs as if such gain were effectively connected with a U.S. business of the non-U.S. holder. A non-U.S. holder thus would be taxed on such a distribution at the normal capital gains rates applicable to U.S. holders, subject to applicable alternative minimum tax and a special alternative minimum tax in the case of a nonresident alien individual. A non-U.S. corporate holder not entitled to treaty relief or an exemption also may be subject to the 30% branch profits tax on such a distribution. The Company must withhold 21% of any distribution that it could designate as a capital gain dividend. A non-U.S. holder may receive a credit against its tax liability for the amount the Company withholds.

Capital gain distributions to a non-U.S. holder that are attributable to the Company's sale of real property will be treated as ordinary dividends rather than as gain from the sale of a USRPI, as long as: (i) (A) such class of our stock is "regularly traded" on an established securities market in the United States; and (B) the non-U.S. holder did not own more than 10% of the applicable class of our stock at any time during the one-year period prior to the distribution; or (ii) the non-U.S. holder was treated as a "qualified shareholder" as discussed below. As a result, non-U.S. holders owning 10% or less of the applicable class of our stock that is "regularly traded" generally will be subject to withholding tax on such capital gain distributions in the same manner as they are subject to withholding tax on ordinary dividends. If a class of our stock is not regularly traded on an established securities market in the United States or the non-U.S. holder owned more than 10% of our stock at any time during the one-year period prior to the distribution, capital gain distributions that are attributable to the Company's sale of real property would be subject to tax under FIRPTA, as described in the preceding paragraph. Moreover, if a non-U.S. holder disposes of our stock during the 30-day period preceding a dividend payment, and such non-U.S. holder (or a person related to such non-U.S. holder) acquires or enters into a contract or option to acquire our stock within 61 days of the first day of the 30-day period described above, and any portion of such dividend payment would, but for the disposition, be treated as a USRPI capital gain to such non-U.S. holder, then such non-U.S. holder shall be treated as having USRPI capital gain in an amount that, but for the disposition, would have been treated as USRPI capital gain.

Although the law is not clear on the matter, it appears that amounts the Company designates as retained capital gains in respect of the stock held by U.S. holders generally should be treated with respect to non-U.S. holders in the same manner as actual distributions by the Company of capital gain dividends. Under this approach, a non-U.S. holder would be able to offset as a credit against its U.S. federal income tax liability its proportionate share of the tax paid by the Company on such retained capital gains, and to receive from the IRS a refund to the extent the non-U.S. holder's proportionate share of such tax paid by the Company exceeds its actual U.S. federal income tax liability, provided that the non-U.S. holder furnishes required information to the IRS on a timely basis, which may require the filing of a tax return with the IRS.

A non-U.S. holder generally will not incur tax under FIRPTA with respect to gain realized upon a disposition of our stock as long as the Company: (i) is not a "United States real property holding corporation" during a specified testing period; or (ii) is a domestically controlled qualified investment entity. A domestically controlled qualified investment entity includes a REIT, less than 50% of the value of which is held directly or indirectly by foreign persons at all times during a specified testing period. The Company believes that it will be a domestically controlled qualified investment entity, but because our stock will be publicly traded, it cannot assure you that it in fact will be a domestically controlled qualified investment entity. However, even if the Company was a "United States real property holding corporation" and it was not a domestically controlled qualified investment entity, a non-U.S. holder that owned, actually or constructively, 10% or less of the applicable class of our stock at all times during a specified testing period would not incur tax under FIRPTA if that class of our stock is "regularly traded" on an established securities market. Because the Company's common and preferred stock will be regularly traded on an established securities market, a non-U.S. holder will not incur tax under FIRPTA with respect to any such gain unless it owns, actually or constructively, more than 10% of the applicable class of our stock. If the gain on the sale of our stock were taxed under FIRPTA, a non-U.S. holder would be taxed in the same manner as U.S. holders with respect to such gain, subject to applicable alternative minimum tax or a special alternative minimum tax in the case of nonresident alien individuals. Furthermore, a non-U.S. holder will incur tax on gain not subject to FIRPTA if: (i) the gain is effectively connected with the non-U.S. holder's U.S. trade or business, in which case the non-U.S. holder will be subject to the same treatment as U.S. holders with respect to such gain; or (ii) the non-U.S. holder is a nonresident alien individual who was present in the United States for 183 days or more during the taxable year and has a "tax home" in the United States, in which case the non-U.S. holder will incur a 30% tax on his capital gains.

**Qualified Shareholders**

Subject to the exception discussed below, any distribution to a "qualified shareholder," as defined below, who holds our stock directly or indirectly (through one or more partnerships) will not be subject to U.S. tax as income effectively connected with a U.S. trade or business and thus will not be subject to special withholding rules under FIRPTA. While a "qualified shareholder" will not be subject to FIRPTA withholding on REIT distributions, certain investors of a "qualified shareholder" (i.e., non-U.S. persons who hold interests in the "qualified shareholder" (other than interests solely as a creditor), and hold more than 10% of our stock (whether or not by reason of the investor's ownership in the "qualified shareholder")) may be subject to FIRPTA withholding.

In addition, a sale of our stock by a "qualified shareholder" who holds such stock directly or indirectly (through one or more partnerships) will not be subject to U.S. federal income taxation under FIRPTA. As with distributions, certain investors of a "qualified shareholder" (i.e., non-U.S. persons who hold interests in the "qualified shareholder" (other than interests solely as a creditor), and hold more than 10% of our stock (whether or not by reason of the investor's ownership in the "qualified shareholder")) may be subject to FIRPTA withholding on a sale of our stock.

A "qualified shareholder" is a foreign person that: (i) either is eligible for the benefits of a comprehensive income tax treaty which includes an exchange of information program and whose principal class of interests is listed and regularly traded on one or more recognized stock exchanges (as defined in such comprehensive income tax treaty), or is a foreign partnership that is created or organized under foreign law as a limited partnership in a jurisdiction that has an agreement for the exchange of information with respect to taxes with the United States and has a class of limited partnership units representing greater than 50% of the value of all the partnership units that are regularly traded on the NYSE or NASDAQ markets; (ii) is a qualified collective investment vehicle, as defined below; and (iii) maintains records on the identity of each person who, at any time during the foreign person's taxable year, is the direct owner of 5% or more of the class of interests or units, as applicable, described in (i), above.

A qualified collective investment vehicle is a foreign person that: (i) would be eligible for a reduced rate of withholding under the comprehensive income tax treaty described above, even if such entity holds more than 10% of the stock of such REIT; (ii) is publicly traded, is treated as a partnership under the Code, is a withholding foreign partnership, and would be treated as a "United States real property holding corporation" if it were a domestic corporation; or (iii) is designated as such by the Secretary of the Treasury and is either (A) fiscally transparent within the meaning of Section 894 of the Code or (B) required to include dividends in its gross income, but is entitled to a deduction for distributions to its investors.

**Qualified Foreign Pension Funds**

Any distribution to a "qualified foreign pension fund" (or an entity all of the interests of which are held by a "qualified foreign pension fund") who holds our stock directly or indirectly (through one or more partnerships) will not be subject to U.S. tax as income effectively connected with a U.S. trade or business and thus will not be subject to special withholding rules under FIRPTA. In addition, a sale of our stock by a "qualified foreign pension fund" that holds such stock directly or indirectly (through one or more partnerships) will not be subject to U.S. federal income taxation under FIRPTA.

A qualified foreign pension fund is any trust, corporation or other organization or arrangement: (i) which is created or organized under the law of a country other than the United States; (ii) which is established to provide retirement or pension benefits to participants or beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered; (iii) which does not have a single participant or beneficiary with a right to more than 5% of its assets or income; (iv) which is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in the country in which it is established or operates; and (v) with respect to which, under the laws of the country in which it is established or operates, (A) contributions to such organization or arrangement that would otherwise be subject to tax under such laws are deductible or excluded from the gross income of such entity or taxed at a reduced rate or (B) taxation of any investment income of such organization or arrangement is deferred or such income is taxed at a reduced rate.

**FATCA Withholding**

Under the Foreign Account Tax Compliance Act, or FATCA, a U.S. withholding tax at a 30% rate will be imposed on dividends paid on our stock received by certain non-U.S. holders if certain disclosure requirements related to U.S. accounts or ownership are not satisfied. In addition, if those disclosure requirements are not satisfied, a U.S. withholding tax at a 30% rate will be imposed on proceeds from the sale of our stock received after December 31, 2018 by certain non-U.S. holders (subject to the proposed Treasury Regulations discussed below). If payment of withholding taxes is required, non-U.S. holders that are otherwise eligible for an exemption from, or reduction of, U.S. withholding taxes with respect to such dividends and proceeds will be required to seek a refund from the IRS to obtain the benefit of such exemption or reduction. The Company will not pay any additional amounts in respect of any amounts withheld.

While withholding under FATCA would have applied to payments of gross proceeds from the sale or disposition of our stock received after December 31, 2018, proposed Treasury Regulations eliminate FATCA withholding on payments of gross proceeds entirely. Taxpayers generally may rely on these proposed Treasury Regulations until final Treasury Regulations are issued.

**Information Reporting Requirements and Backup Withholding; Shares Held Offshore**

The Company will report to its holders and to the IRS the amount of distributions it pays during each calendar year, and the amount of tax it withholds, if any. Under the backup withholding rules, a holder may be subject to backup withholding at a rate of 28% with respect to distributions unless the holder:

- is a corporation or qualifies for certain other exempt categories and, when required, demonstrates this fact; or
- provides a taxpayer identification number, certifies as to no loss of exemption from backup withholding, and otherwise complies with the applicable requirements of the backup withholding rules.

A holder who does not provide the Company with its correct taxpayer identification number also may be subject to penalties imposed by the IRS. Any amount paid as backup withholding will be creditable against the holder's income tax liability. In addition, the Company may be required to withhold a portion of capital gain distributions to any U.S. holders who fail to certify their non-foreign status to the Company.

Backup withholding will generally not apply to payments of dividends made by the Company or its paying agents, in their capacities as such, to a non-U.S. holder, provided that the non-U.S. holder furnishes to the Company or its paying agent the required certification as to its non-U.S. status, such as providing a valid IRS Form W-8BEN, W-8BEN-E or W-8ECI, or certain other requirements are met. Notwithstanding the foregoing, backup withholding may apply if either the Company or its paying agent has actual knowledge, or reason to know, that the holder is a U.S. person that is not an exempt recipient. Payments of the net proceeds from a disposition or a redemption effected outside the United States by a non-U.S. holder made by or through a foreign office of a broker generally will not be subject to information reporting or backup withholding. However, information reporting (but not backup withholding) generally will apply to such a payment if the broker has certain connections with the U.S. unless the broker has documentary evidence in its records that the beneficial owner is a non-U.S. holder and specified conditions are met or an exemption is otherwise established. Payment of the net proceeds from a disposition by a non-U.S. holder of our stock made by or through the U.S. office of a broker is generally subject to information reporting and backup withholding unless the non-U.S. holder certifies under penalties of perjury that it is not a U.S. person and satisfies certain other requirements or otherwise establishes an exemption from information reporting and backup withholding.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be refunded or credited against the holder's U.S. federal income tax liability if certain required information is furnished to the IRS. Holders are urged to consult their own tax advisors regarding application of backup withholding to them and the availability of, and procedure for obtaining an exemption from, backup withholding.

Under FATCA, a U.S. withholding tax at a 30% rate will be imposed on dividends paid on our stock received by U.S. holders who own their stock through foreign accounts or foreign intermediaries if certain disclosure requirements related to U.S. accounts or ownership are not satisfied. The Company will not pay any additional amounts in respect of any amounts withheld.

**Other Tax Consequences**

**Tax Aspects of BrightSpire Capital, Inc.'s Investments in the Operating Partnership and the Subsidiary Partnerships**

The following discussion summarizes certain U.S. federal income tax considerations applicable to the Company's direct or indirect investments in the Company's Operating Partnership and any subsidiary partnerships or limited liability companies that the Company forms or acquires interests in and that are treated as partnerships for U.S. federal income tax purposes (individually, "Partnership" and, collectively, as the "Partnerships"). The discussion does not cover state or local tax laws or any U.S. federal tax laws other than income tax laws. The Company will include in its income its proportionate share of Partnership items of income, gain, loss, deduction or credit for purposes of the REIT income tests, and will include its proportionate share of assets held by the Partnerships based on its capital interest in such partnerships (other than for purposes of the 10% value test, for which the determination of our interest in partnership assets will be based on our proportionate interest in any securities issued by the partnership, other than certain securities specifically excluded under the Code). The Company's interest in a Partnership is calculated based on either the Company's percentage ownership of the capital of the Partnership or based on the allocations provided in the applicable partnership or limited liability company agreement, using the more conservative calculation. Consequently, to the extent that the Company holds an equity interest in a Partnership, the Partnership's assets and operations may affect its ability to qualify as a REIT, even though the Company may have no control, or have only limited influence, over the Partnership.

*Classification as Partnerships*. The Company is entitled to include in its income its distributive share of each Partnership's income and to deduct its distributive share of each Partnership's losses only if such Partnership is classified for U.S. federal income tax purposes as a partnership (or an entity that is disregarded for U.S. federal income tax purposes if the entity has only one owner or member) rather than as a corporation or an association taxable as a corporation. An unincorporated domestic entity with at least two owners or members will be classified as a partnership, rather than as a corporation, for U.S. federal income tax purposes if it:

- is treated as a partnership under the Treasury Regulations relating to entity classification or the check-the-box regulations, as described below; and
- is not a "publicly traded" partnership, as defined below.

Under the check-the-box regulations, an unincorporated domestic entity with at least two owners or members may elect to be classified either as an association taxable as a corporation or as a partnership. If such an entity fails to make an election, it generally will be treated as a partnership (or as an entity that is disregarded for U.S. federal income tax purposes if the entity has only one owner or member) for U.S. federal income tax purposes. Each Partnership intends to be classified as a partnership for U.S. federal income tax purposes and no Partnership will elect to be treated as an association taxable as a corporation under the check-the-box regulations.

A publicly traded partnership is a partnership whose interests are traded on an established securities market or are readily tradable on a secondary market or the substantial equivalent thereof. A publicly traded partnership will not, however, be treated as a corporation for any taxable year if, for each taxable year beginning after December 31, 1987 in which it was classified as a publicly traded partnership, 90% or more of the partnership's gross income for such year consists of certain passive-type income, including real property rents, gains from the sale or other disposition of real property, interest and dividends, or the 90% passive income exception. Treasury Regulations provide additional limited safe harbors from the definition of a publicly traded partnership. Pursuant to the private placement exclusion safe harbor, interests in a partnership will not be treated as readily tradable on a secondary market or the substantial equivalent thereof if: (i) all interests in the partnership were issued in a transaction or transactions that were not required to be registered under the Securities Act; and (ii) the partnership does not have more than 100 partners at any time during the partnership's taxable year. In determining the number of partners in a partnership, a person owning an interest in a partnership, grantor trust or S corporation that owns an interest in the partnership is treated as a partner in such partnership only if: (i) substantially all of the value of the owner's interest in the entity is attributable to the entity's direct or indirect interest in the partnership; and (ii) a principal purpose of the use of the entity is to permit the partnership to satisfy the 100-partner limitation. Each Partnership is expected to qualify for treatment as a partnership for U.S. federal income tax purposes pursuant to the 90% passive income exception or the private placement safe harbor. The Company has not requested, and does not intend to request, a ruling from the IRS that the Partnerships will be classified as partnerships for U.S. federal income tax purposes.

If, for any reason, a Partnership in which the Company owned more than 10% of the equity were taxable as a corporation, rather than as a partnership, for U.S. federal income tax purposes, the Company likely would not be able to qualify as a REIT unless it qualified for certain relief provisions. Refer to the sections entitled "—Requirements for Qualification—Gross Income Tests" and "—Requirements for Qualification—Asset Tests." In addition, any change in a Partnership's status for tax purposes might be treated as a taxable event, in which case the Company might incur tax liability without any related cash distribution. Refer to the section entitled "—Requirements for Qualification—Distribution Requirements." Further, items of income and deduction of such Partnership would not pass through to its partners, and its partners would be treated as holders for tax purposes. Consequently, such Partnership would be required to pay income tax at corporate rates on its net income and distributions to its partners would constitute dividends that would not be deductible in computing such Partnership's taxable income.

**Income Taxation of the Partnerships and their Partners**

*Partners, Not the Partnerships, Subject to Tax*. A partnership generally is not a taxable entity for U.S. federal income tax purposes. Rather, the Company is required to take into account its allocable share of each Partnership's income, gains, losses, deductions and credits for any taxable year of such Partnership ending within or with the Company's taxable year, without regard to whether the Company has received or will receive any distribution from such Partnership. For taxable years beginning after December 31, 2017, however, the tax liability for adjustments to a Partnership's tax returns made as a result of an audit by the IRS will be imposed on the Partnership itself in certain circumstances absent an election to the contrary.

*Partnership Allocations*. Although a partnership agreement generally will determine the allocation of income and losses among partners, such allocations will be disregarded for tax purposes if they do not comply with the provisions of the U.S. federal income tax laws governing partnership allocations. If an allocation is not recognized for U.S. federal income tax purposes, the item subject to the allocation will be reallocated in accordance with the partners' interests in the partnership, which will be determined by taking into account all of the facts and circumstances relating to the economic arrangement of the partners with respect to such item. Each Partnership's allocations of taxable income, gain and loss are intended to comply with the requirements of the U.S. federal income tax laws governing partnership allocations.

*Tax Allocations With Respect to Contributed Properties*. Income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership in a tax-deferred transaction or contributed property in exchange for an interest in the partnership must be allocated in a manner such that the contributing partner is charged with, or benefits from, respectively, the unrealized gain or unrealized loss associated with the property at the time of the contribution. The amount of such unrealized gain or unrealized loss, or built-in gain or built-in loss, respectively, is generally equal to the difference between the fair market value of the contributed property at the time of contribution and the adjusted tax basis of such property at the time of contribution, or a book-tax difference. Such allocations are solely for U.S. federal income tax purposes and do not affect the book capital accounts or other economic or legal arrangements among the partners. The U.S. Treasury Department has issued regulations requiring partnerships to use a "reasonable method" for allocating items with respect to which there is a book-tax difference and outlining several reasonable allocation methods.

*Basis in Partnership Interest*. The Company's adjusted tax basis in any Partnership generally is equal to:

- the amount of cash and the basis of any other property contributed by the Company to the Partnership;
- increased by the Company's allocable share of the Partnership's income and its allocable share of indebtedness of the Partnership; and
- reduced, but not below zero, by the Company's allocable share of the Partnership's loss and the amount of cash distributed to the Company and by constructive distributions resulting from a reduction in the Company's share of indebtedness of the Partnership.

If the allocation of the Company's distributive share of the Partnership's loss would reduce the adjusted tax basis of the Company's partnership interest below zero, the recognition of such loss will be deferred until such time as the recognition of such loss would not reduce the Company's adjusted tax basis below zero. To the extent that the Partnership's distributions or any decrease in the Company's share of the indebtedness of the Partnership, which is considered a constructive cash distribution to the partners, would reduce the Company's adjusted tax basis below zero, such distributions or decreases will constitute taxable income to the Company. Such distributions and constructive distributions normally will be characterized as long-term capital gain.

*Depreciation Deductions Available to Partnerships*. The initial tax basis of property is the amount of cash and the basis of property given as consideration for the property. The Partnership's initial basis in contributed properties acquired in exchange for units of the Partnership should be the same as the transferor's basis in such properties on the date of acquisition. Although the law is not entirely clear, the Partnership generally will depreciate such property for U.S. federal income tax purposes over the same remaining useful lives and under the same methods used by the transferors. The Partnership's tax depreciation deductions will be allocated among the partners in accordance with their respective interests in the Partnership, except to the extent that the Partnership is required under the U.S. federal income tax laws governing partnership allocations to use another method for allocating tax depreciation deductions attributable to contributed or revalued properties, which could result in the Company receiving a disproportionate share of such deductions.

**Legislative or Other Actions Affecting REITs**

This discussion is based upon the provision of the Code, the Treasury Regulations and administrative and judicial interpretations thereof, all as of the date thereof. Those authorities may be changed, perhaps retroactively, so as to result in U.S. federal income tax consequences (including applicable tax rates) different from those summarized herein. The Company cannot give you any assurances as to whether, or in what form, any proposals affecting REITs or their holders will be enacted. Changes to the U.S. federal tax laws and interpretations thereof could adversely affect an investment in the Company's stock. Holders should consult their tax advisors regarding the effect of potential changes to the U.S. federal tax laws and on an investment in our stock.

**State, Local and Foreign Taxes**

The Company and/or you may be subject to taxation by various states, localities and foreign jurisdictions, including those in which the Company or a holder transacts business, owns property or resides. The state, local and foreign tax treatment may differ from the U.S. federal income tax treatment described above. Consequently, you are urged to consult your tax advisors regarding the effect of state, local and foreign tax laws upon an investment in our stock.

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.**

Not applicable.

## PART III

### Item 10. Directors, Executive Officers and Corporate Governance.

The information required by Item 10 is hereby incorporated by reference to the definitive proxy statement to be filed with the SEC pursuant to Regulation 14A within 120 days after our fiscal year ended December 31, 2021.

### Item 11. Executive Compensation.

The information required by Item 11 is hereby incorporated by reference to the definitive proxy statement to be filed with the SEC pursuant to Regulation 14A within 120 days after our fiscal year ended December 31, 2021.

### Item 12. Security Ownership of Certain Beneficial Owners and Management Related Stockholder Matters.

The information required by Item 12 is hereby incorporated by reference to the definitive proxy statement to be filed with the SEC pursuant to Regulation 14A within 120 days after our fiscal year ended December 31, 2021.

### Item 13. Certain Relationships and Related Transactions, and Director Independence.

The information required by Item 13 is hereby incorporated by reference to the definitive proxy statement to be filed with the SEC pursuant to Regulation 14A within 120 days after our fiscal year ended December 31, 2021.

### Item 14. Principal Accounting Fees and Services

The information required by Item 14 is hereby incorporated by reference to the definitive proxy statement to be filed with the SEC pursuant to Regulation 14A within 120 days after our fiscal year ended December 31, 2021.

## PART IV

**Item 15. Exhibits and Financial Statement Schedules**

**(a)(1) and (2). Financial Statement and Schedules of BrightSpire Capital, Inc.**



All other schedules are omitted because they are not applicable, or the required information is included in the consolidated financial statements or notes thereto.

**(a)(3) Exhibits**

## Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of BrightSpire Capital, Inc.

**Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of BrightSpire Capital, Inc. (the Company) as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive income (loss), equity and cash flows for each of the three years in the period ended December 31, 2021, and the related notes and financial statement schedules listed in the Index at Item 15 (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company’s internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 22, 2022 expressed an unqualified opinion thereon.

**Adoption of New Accounting Standard**

As discussed in Note 2 to the consolidated financial statements, the Company has changed its method of accounting for credit losses in the year ended December 31, 2021 and 2020 due to adoption of Accounting Standard Update, or ASU, 2016-13 “Financial Instruments – Credit Losses – Measurement of Credit Losses on Financial Instruments (Topic 326)”.

**Basis for Opinion**

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matters communicated below are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

***Allowance for Loan Losses***

| | |
|---|---|
| *Description of the Matter* | As of December 31, 2021, the Company's loans and preferred equity held for investment portfolio and the associated allowance for loan loss totaled $3.5 billion and $36.6 million, respectively. These investments are typically collateralized by commercial real estate. As described in Note 2, the Company establishes a provision at origination or acquisition that reflects management's estimate of the total expected credit loss over the expected life of the loan or preferred equity investment. The Company reassess the allowance for loan losses for all the loans and preferred equity held for investment at each balance sheet date. In estimating the lifetime expected credit losses, management utilizes a probability of default and loss given default methodology, which considers projected economic conditions over the reasonable and supportable forecast period. The Company also considers qualitative factors in its determination of the allowance for loan losses.<br><br>Auditing the allowance for loan loss on loans and preferred equity held for investment portfolio was highly subjective due to the complexity of the models and the judgmental nature of the significant assumptions used in the determination of management's estimates including certain macro-economic variables, current and stabilized fair values and the stabilized net operating income of the underlying collateral. These assumptions have a significant effect on the allowance for loan loss. |
| *How We Addressed the Matter in Our Audit* | We obtained an understanding, evaluated the design and tested the operating effectiveness of controls over the Company's processes to estimate the allowance for loan losses on its loans and preferred equity held for investment, including management's review of the significant assumptions described above and the completeness and accuracy of key inputs used in the expected credit loss models.<br><br>To test the allowance for loan losses, we performed audit procedures that included, among others, evaluating the methodology and the significant assumptions described above and testing the completeness and accuracy of the data used. With the assistance of our internal specialists and other professionals, we evaluated the appropriateness of the probability of default and loss given default methodology used to estimate the allowance and assessed the underlying macroeconomic variables used in the models. We reviewed the sensitivity analyses prepared by management and compared management's significant assumptions to relevant information from external sources. For a sample of loans, we involved our internal real estate valuation professionals to assist us in performing procedures to corroborate the reasonableness of current and stabilized fair values and stabilized net operating income of the underlying collateral utilized in developing the allowance for loan losses. We also evaluated the reasonableness of qualitative adjustments made by management based on the fair value of the underlying collateral. |

| | |
|---|---|
| | ***Impairment of Equity Method Investments*** |
| *Description of the Matter* | As of December 31, 2021, the Company's investments in joint ventures accounted for as equity method investments totaled $16.2 million. As described in Note 2 and Note 4 to the consolidated financial statements, the Company periodically assesses whether there are any indicators that the value of its investments in unconsolidated joint ventures may be impaired. An investment is impaired if management's estimate of the value of the investment is less than its carrying value and such decline in value is determined to be other than temporary. To the extent that an other than temporary impairment has occurred, the impairment loss is measured as the excess of the carrying amount of the investment over the value of the investment. During the year ended December 31, 2021, the Company recorded other than temporary impairment charges related to its investments in joint ventures of $102.7 million.<br><br>Auditing management's assessment of other than temporary impairment involved a high degree of subjectivity in the evaluation of whether events or changes in circumstances have occurred indicating that the Company's investments in unconsolidated joint ventures may be impaired and the measurement of any impairment recognized. If an impairment indicator exists, the fair value of the investment is estimated based on a number of assumptions including the estimated timing and probabilities of the future cash flows of the unconsolidated joint ventures, discount and capitalization rates that are forward looking and could be affected by future economic and market conditions. The estimated fair values of the investments in unconsolidated joint ventures were highly sensitive to relatively small changes in one or more of those assumptions. |
| *How We Addressed the Matter in Our Audit* | We obtained an understanding, evaluated the design and tested the operating effectiveness of controls over the Company's process to evaluate if other than temporary impairment indicators exist for its investments in unconsolidated joint ventures and the measurement and recognition of any related impairment. For example, we tested controls over management's review for the identification of impairment indicators and its review of the significant assumptions and key inputs utilized in the estimate of the fair value of the investments.<br><br>We performed audit procedures that included, among others, evaluating management's identification of indicators that the Company's investments in unconsolidated joint ventures may be impaired and its assessment as to whether such impairment was other than temporary. For investments with other than temporary impairment indicators, we performed audit procedures to evaluate the significant assumptions described above and test the clerical accuracy of the models used to determine the fair value of the investments. For example, we evaluated the reasonableness of management's estimates of the timing and probabilities of future cash flows from the investments as well as the reasonableness of the discount and capitalization rates by comparing them to the relevant industry and market data. In certain instances, we involved our internal real estate valuation professionals to assist in performing these procedures. |

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2017.

New York, New York
February 22, 2022

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**BRIGHTSPIRE CAPITAL, INC.**
**CONSOLIDATED BALANCE SHEETS**
**(in Thousands, Except Share and Per Share Data)**

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Assets** | | |
| Cash and cash equivalents | $ 259,722 | $ 474,817 |
| Restricted cash | 86,841 | 65,213 |
| Loans and preferred equity held for investment | 3,485,607 | 2,220,688 |
| Allowance for loan losses | (36,598) | (37,191) |
| Loans and preferred equity held for investment, net | 3,449,009 | 2,183,497 |
| Real estate securities, available for sale, at fair value | — | 10,389 |
| Real estate, net | 783,211 | 839,257 |
| Investments in unconsolidated ventures ($4,406 and $6,883 at fair value, respectively) | 20,591 | 373,364 |
| Receivables, net | 54,499 | 37,375 |
| Deferred leasing costs and intangible assets, net | 64,981 | 75,700 |
| Assets held for sale | 44,345 | 323,356 |
| Other assets | 61,860 | 60,900 |
| Mortgage loans held in securitization trusts, at fair value | 813,310 | 1,768,069 |
| **Total assets** | $ 5,638,369 | $ 6,211,937 |
| **Liabilities** | | |
| Securitization bonds payable, net | $ 1,500,899 | $ 835,153 |
| Mortgage and other notes payable, net | 760,583 | 1,022,757 |
| Credit facilities | 905,122 | 535,224 |
| Due to related party (Note 10) | — | 10,060 |
| Accrued and other liabilities | 99,814 | 96,578 |
| Intangible liabilities, net | 6,224 | 7,657 |
| Liabilities related to assets held for sale | — | 323 |
| Escrow deposits payable | 73,344 | 36,973 |
| Dividends payable | 23,912 | — |
| Mortgage obligations issued by securitization trusts, at fair value | 777,156 | 1,708,534 |
| **Total liabilities** | 4,147,054 | 4,253,259 |
| Commitments and contingencies (Note 17) | | |
| **Equity** | | |
| **Stockholders' equity** | | |
| Preferred stock, $0.01 par value, 50,000,000 shares authorized, no shares issued and outstanding as of December 31, 2021 and December 31, 2020, respectively | — | — |
| Common stock, $0.01 par value per share | | |
| Class A, 950,000,000 shares authorized, 129,769,365 and 128,564,930 shares issued and outstanding as of December 31, 2021 and December 31, 2020, respectively | 1,298 | 1,286 |
| Additional paid-in capital | 2,855,766 | 2,844,023 |
| Accumulated deficit | (1,410,562) | (1,234,224) |
| Accumulated other comprehensive income | 8,786 | 54,588 |
| Total stockholders' equity | 1,455,288 | 1,665,673 |
| Noncontrolling interests in investment entities | 1,472 | 253,225 |
| Noncontrolling interests in the Operating Partnership | 34,555 | 39,780 |
| Total equity | 1,491,315 | 1,958,678 |
| **Total liabilities and equity** | $ 5,638,369 | $ 6,211,937 |

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

**BRIGHTSPIRE CAPITAL, INC.**
**CONSOLIDATED BALANCE SHEETS**
**(in Thousands)**

The following table presents assets and liabilities of securitization trusts and certain real estate properties that have noncontrolling interests as variable interest entities for which the Company is determined to be the primary beneficiary.

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Assets** | | |
| Cash and cash equivalents | $ 6,720 | $ 19,248 |
| Restricted cash | 9,658 | 15,397 |
| Loans and preferred equity held for investment, net | 1,781,522 | 919,681 |
| Real estate, net | 170,201 | 413,057 |
| Investments in unconsolidated ventures | 16,200 | 252,384 |
| Receivables, net | 12,808 | 25,127 |
| Deferred leasing costs and intangible assets, net | 15,105 | 52,240 |
| Other assets | 21,901 | 21,984 |
| Mortgage loans held in securitization trusts, at fair value | 813,310 | 1,768,069 |
| **Total assets** | $ 2,847,425 | $ 3,487,187 |
| **Liabilities** | | |
| Securitization bonds payable, net | $ 1,500,899 | $ 835,153 |
| Mortgage and other notes payable, net | 177,373 | 399,337 |
| Accrued and other liabilities | 6,768 | 98,576 |
| Intangible liabilities, net | 6,224 | 7,657 |
| Escrow deposits payable | 3,484 | 3,591 |
| Mortgage obligations issued by securitization trusts, at fair value | 777,156 | 1,708,534 |
| **Total liabilities** | $ 2,471,904 | $ 3,052,848 |

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

**BRIGHTSPIRE CAPITAL, INC.**
**CONSOLIDATED STATEMENTS OF OPERATIONS**
**(in Thousands, Except Per Share Data)**

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Net interest income** | | | |
| Interest income | $ 168,845 | $ 156,851 | $ 175,169 |
| Interest expense | (55,484) | (63,043) | (87,730) |
| Interest income on mortgage loans held in securitization trusts | 51,609 | 92,461 | 120,203 |
| Interest expense on mortgage obligations issued by securitization trusts | (45,460) | (83,952) | (109,964) |
| Net interest income | 119,510 | 102,317 | 97,678 |
| **Property and other income** | | | |
| Property operating income | 102,634 | 175,037 | 253,955 |
| Other income | 2,333 | 1,836 | 2,333 |
| Total property and other income | 104,967 | 176,873 | 256,288 |
| **Expenses** | | | |
| Management fee expense | 9,596 | 29,739 | 42,390 |
| Property operating expense | 30,286 | 64,987 | 112,801 |
| Transaction, investment and servicing expense | 4,556 | 9,975 | 7,191 |
| Interest expense on real estate | 32,278 | 48,860 | 55,415 |
| Depreciation and amortization | 36,399 | 59,766 | 103,220 |
| Provision for (reversal of) loan losses, net | (1,432) | 78,561 | 220,572 |
| Impairment of operating real estate | — | 42,814 | 282,749 |
| Administrative expense (including $14,016, $4,367 and $10,810 of equity-based compensation expense, respectively) | 50,011 | 26,551 | 31,936 |
| Restructuring charges | 109,321 | — | — |
| Total expenses | 271,015 | 361,253 | 856,274 |
| **Other income (loss)** | | | |
| Unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net | 41,904 | (50,521) | 4,090 |
| Realized gain (loss) on mortgage loans and obligations held in securitization trusts, net | (36,623) | — | 2,772 |
| Other gain (loss), net | 74,067 | (118,725) | (972) |
| **Income (loss) before equity in earnings of unconsolidated ventures and income taxes** | 32,810 | (251,309) | (496,418) |
| Equity in earnings (loss) of unconsolidated ventures | (131,115) | (135,173) | 36,942 |
| Income tax benefit (expense) | (6,276) | 10,898 | (3,172) |
| **Net loss** | (104,581) | (375,584) | (462,648) |
| Net loss attributable to noncontrolling interests: | | | |
| Investment entities | 1,732 | 13,924 | 38,208 |
| Operating Partnership | 1,803 | 8,361 | 9,928 |
| **Net loss attributable to BrightSpire Capital, Inc. common stockholders** | $ (101,046) | $ (353,299) | $ (414,512) |
| **Net loss per common share - basic and diluted** (Note 19) | $ (0.79) | $ (2.75) | $ (3.25) |
| **Weighted average shares of common stock outstanding - basic and diluted** (Note 19) | 128,496 | 128,548 | 128,391 |

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

**BRIGHTSPIRE CAPITAL, INC.**
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)**
**(in Thousands)**

| | Year Ended December 31, | | |
|---|---|---|---|
| | **2021** | **2020** | **2019** |
| **Net loss** | $ (104,581) | $ (375,584) | $ (462,648) |
| **Other comprehensive income (loss)** | | | |
| Unrealized gain (loss) on real estate securities, available for sale | (200) | (16,319) | 17,848 |
| Change in fair value of net investment hedges | (29,927) | 21,764 | 15,460 |
| Foreign currency translation gain (loss) | (17,294) | 23,397 | (3,901) |
| **Total other comprehensive income (loss)** | (47,421) | 28,842 | 29,407 |
| **Comprehensive income (loss)** | (152,002) | (346,742) | (433,241) |
| Comprehensive (income) loss attributable to noncontrolling interests: | | | |
| Investment entities | 1,732 | 11,731 | 38,208 |
| Operating Partnership | 3,100 | 8,008 | 9,214 |
| **Comprehensive income (loss) attributable to common stockholders** | $ (147,170) | $ (327,003) | $ (385,819) |

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

# BRIGHTSPIRE CAPITAL, INC.
## CONSOLIDATED STATEMENTS OF EQUITY (Continued)
## (in Thousands)

| | Common Stock | | | | Additional Paid-in Capital | Retained Earnings (Accumulated Deficit) | Accumulated Other Comprehensive Income | Total Stockholders' Equity | Noncontrolling Interests in Investment Entities | Noncontrolling Interests in the Operating Partnership | Total Equity |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Class A | | Class B-3 | | | | | | | | |
| | Shares | Amount | Shares | Amount | | | | | | | |
| **Balance as of December 31, 2018** | 83,410 | $ 834 | 44,399 | $ 444 | $ 2,899,353 | $ (193,327) | $ (399) | $ 2,706,905 | $ 72,683 | $ 65,614 | $ 2,845,202 |
| Contributions | — | — | — | — | — | — | — | — | 156 | — | 156 |
| Distributions | — | — | — | — | — | — | — | — | (3,000) | — | (3,000) |
| Conversion of Class B-3 common stock to Class A common stock | 44,399 | 444 | (44,399) | (444) | — | — | — | — | — | — | — |
| Issuance and amortization of equity-based compensation | 832 | 8 | — | — | 10,802 | — | — | 10,810 | — | — | 10,810 |
| Other comprehensive income | — | — | — | — | — | — | 28,693 | 28,693 | — | 714 | 29,407 |
| Dividends and distributions declared ($1.65 per share) | — | — | — | — | — | (211,899) | — | (211,899) | — | (5,081) | (216,980) |
| Shares canceled for tax withholding on vested stock awards | (102) | (1) | — | — | (1,596) | — | — | (1,597) | — | — | (1,597) |
| Reallocation of equity | — | — | — | — | 622 | — | — | 622 | — | (622) | — |
| Net income (loss) | — | — | — | — | — | (414,512) | — | (414,512) | (38,208) | (9,928) | (462,648) |
| **Balance as of December 31, 2019** | 128,539 | $ 1,285 | — | $ — | $ 2,909,181 | $ (819,738) | $ 28,294 | $ 2,119,022 | $ 31,631 | $ 50,697 | $ 2,201,350 |
| Contributions | — | — | — | — | — | — | — | — | 200,960 | — | 200,960 |
| Distributions | — | — | — | — | — | — | — | — | (36,397) | — | (36,397) |
| Issuance and amortization of equity-based compensation | 237 | 2 | — | — | 4,365 | — | — | 4,367 | — | — | 4,367 |
| Other comprehensive income | — | — | — | — | — | — | 26,294 | 26,294 | 2,195 | 353 | 28,842 |
| Dividends and distributions declared ($0.30 per share) | — | — | — | — | — | (38,543) | — | (38,543) | — | (922) | (39,465) |
| Shares canceled for tax withholding on vested stock awards | (211) | (1) | — | — | (1,742) | — | — | (1,743) | — | — | (1,743) |
| Reallocation of equity | — | — | — | — | 1,445 | — | — | 1,445 | — | (1,445) | — |
| Costs of noncontrolling equity | — | — | — | — | (466) | — | — | (466) | — | — | (466) |
| Investment by JV partner in consolidated JV and equity reallocation related to that partner's return | — | — | — | — | (68,760) | — | — | (68,760) | 68,760 | — | — |
| Effect of CECL Adoption (see Note 2) | — | — | — | — | — | (22,644) | — | (22,644) | — | (542) | (23,186) |
| Net income (loss) | — | — | — | — | — | (353,299) | — | (353,299) | (13,924) | (8,361) | (375,584) |
| **Balance as of December 31, 2020** | 128,565 | $ 1,286 | — | $ — | $ 2,844,023 | $ (1,234,224) | $ 54,588 | $ 1,665,673 | $ 253,225 | $ 39,780 | $ 1,958,678 |
| Contributions | — | — | — | — | — | — | — | — | 5,845 | — | 5,845 |
| Distributions | — | — | — | — | — | — | — | — | (255,545) | — | (255,545) |
| Issuance and amortization of equity-based compensation | 1,471 | 14 | — | — | 14,016 | — | — | 14,030 | — | — | 14,030 |
| Other comprehensive income/(loss) | — | — | — | — | — | — | (45,802) | (45,802) | (321) | (1,298) | (47,421) |
| Dividends and distributions declared ($0.58 per share) | — | — | — | — | — | (75,292) | — | (75,292) | — | (1,784) | (77,076) |
| Shares canceled for tax withholding on vested stock awards | (267) | (2) | — | — | (2,613) | — | — | (2,615) | — | — | (2,615) |
| Reallocation of equity | — | — | — | — | 340 | | — | 340 | — | (340) | — |
| Net income (loss) | — | — | — | — | — | (101,046) | — | (101,046) | (1,732) | (1,803) | (104,581) |
| **Balance as of December 31, 2021** | 129,769 | $ 1,298 | — | $ — | $ 2,855,766 | $ (1,410,562) | $ 8,786 | $ 1,455,288 | $ 1,472 | $ 34,555 | $ 1,491,315 |

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

# BRIGHTSPIRE CAPITAL, INC.
# CONSOLIDATED STATEMENTS OF CASH FLOWS
# (in Thousands)

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Cash flows from operating activities:** | | | |
| Net loss | $ (104,581) | $ (375,584) | $ (462,648) |
| Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities: | | | |
| Equity in (earnings) losses of unconsolidated ventures | 131,115 | 135,173 | (36,942) |
| Depreciation and amortization | 36,399 | 59,766 | 103,220 |
| Straight-line rental income | (2,601) | (3,899) | (6,827) |
| Amortization of above/below market lease values, net | (98) | (409) | (2,904) |
| Amortization of premium/accretion of discount and fees on investments and borrowings, net | (6,706) | (9,485) | (13,109) |
| Amortization of deferred financing costs | 12,316 | 12,133 | 9,657 |
| Amortization of right-of-use lease assets and operating lease liabilities | 104 | 86 | 101 |
| Paid-in-kind interest added to loan principal, net of interest received | (4,818) | 1,446 | (7,784) |
| Distributions of cumulative earnings from unconsolidated ventures | — | 13,429 | 65,136 |
| Unrealized (gain) loss on mortgage loans and obligations held in securitization trusts, net | (41,904) | 50,521 | (4,090) |
| Realized (gain) loss on mortgage loans and obligations held in securitization trusts, net | 36,623 | — | (2,772) |
| Realized loss on securities from write-down to fair value | 990 | 32,606 | — |
| Realized (gain) loss on sale of real estate securities, available for sale | (1,331) | 42,153 | — |
| Designated hedges and foreign currency translation reclassified to earnings | (30,497) | — | — |
| Realized gain on sale of real estate | (11,911) | (14,599) | — |
| Realized loss on sale of loans receivable | — | 1,457 | — |
| Provision for (reversal of) loan losses | (1,432) | 78,561 | 220,572 |
| Impairment of operating real estate | — | 42,814 | 282,749 |
| Amortization of equity-based compensation | 14,016 | 4,367 | 10,810 |
| Mortgage notes above/below market value amortization | 117 | (666) | 400 |
| Realized gain on sales of unconsolidated ventures | (25,451) | — | — |
| Deferred income tax (benefit) expense | (85) | (172) | (4,652) |
| Other (gain) loss, net | (1,647) | 23,524 | 9,678 |
| Changes in assets and liabilities: | | | |
| Receivables, net | (1,202) | 13,243 | (9,136) |
| Deferred costs and other assets | (3,721) | 12,935 | (14,871) |
| Due to related party | (10,059) | (957) | (4,003) |
| Other liabilities | (4,906) | (22,087) | 4,591 |
| Net cash provided (used in) by operating activities | (21,270) | 96,356 | 137,176 |
| **Cash flows from investing activities:** | | | |
| Acquisition, origination and funding of loans and preferred equity held for investment, net | (1,758,090) | (296,981) | (1,350,120) |
| Repayment on loans and preferred equity held for investment | 485,411 | 434,677 | 465,647 |
| Repayment on loans held for sale | — | 137,132 | — |
| Proceeds from sale of real estate | 332,003 | 454,589 | 85,389 |
| Cash and restricted cash received related to foreclosure of loans held for investment | — | — | 3,436 |
| Acquisition of and additions to real estate, related intangibles and leasing commissions | (9,923) | (23,210) | (24,218) |
| Investments in unconsolidated ventures | (11,953) | (48,934) | (47,938) |
| Proceeds from sale of investments in unconsolidated ventures | 198,353 | 108,367 | 115,298 |
| Distributions in excess of cumulative earnings from unconsolidated ventures | 47,587 | 25,221 | 212,611 |
| Repayment of real estate securities, available for sale, from sales | 10,223 | 149,629 | — |
| Repayment of real estate securities, available for sale, from cost recovery | 310 | 3,579 | — |
| Repayment of principal in mortgage loans held in securitization trusts | 78,907 | 76,719 | 47,540 |
| Proceeds from sale of beneficial interests of securitization trusts | 28,662 | — | 39,848 |
| Net receipts on settlement of derivative instruments | 6,351 | 19,637 | 28,890 |
| Deposit on investments | — | — | (372) |
| Change in escrow deposits | 36,370 | (37,683) | 7,964 |
| Net cash provided (used in) by investing activities | (555,789) | 1,002,742 | (416,025) |
| **Cash flows from financing activities:** | | | |
| Distributions paid on common stock | (51,916) | (51,707) | (217,721) |
| Distributions paid on common stock to noncontrolling interests | (1,221) | (922) | (5,081) |
| Shares canceled for tax withholding on vested stock awards | (2,613) | (1,743) | (1,596) |
| Borrowings from mortgage notes | 7,196 | 18,618 | 93,582 |
| Repayment of mortgage notes | (266,596) | (240,081) | (8,349) |
| Borrowings from credit facilities | 1,325,237 | 298,583 | 1,443,118 |
| Repayment of credit facilities | (955,292) | (862,592) | (1,709,802) |
| Borrowing from securitization bonds | 670,000 | — | 840,423 |
| Repayment of securitization bonds | — | — | (81,372) |
| Repayment of mortgage obligations issued by securitization trusts | (78,907) | (76,719) | (47,540) |
| Payment of deferred financing costs | (11,832) | (6,741) | (16,035) |
| Contributions from noncontrolling interests | 5,845 | 200,494 | 156 |
| Distributions to noncontrolling interests | (255,545) | (31,252) | (3,000) |
| Net cash provided by (used in) financing activities | 384,356 | (754,062) | 286,783 |
| Effect of exchange rates on cash, cash equivalents and restricted cash | (764) | (690) | 287 |
| Net increase (decrease) in cash, cash equivalents and restricted cash | (193,467) | 344,346 | 8,221 |
| Cash, cash equivalents and restricted cash - beginning of period | 540,030 | 195,684 | 187,463 |
| Cash, cash equivalents and restricted cash - end of period | $ 346,563 | $ 540,030 | $ 195,684 |

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

**BRIGHTSPIRE CAPITAL, INC.**
**CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)**
**(in Thousands)**

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Reconciliation of cash, cash equivalents, and restricted cash to consolidated balance sheets** | | | |
| Beginning of the period | | | |
| Cash and cash equivalents | $ 474,817 | $ 69,619 | $ 77,317 |
| Restricted cash | 65,213 | 126,065 | 110,146 |
| Total cash, cash equivalents and restricted cash, beginning of period | $ 540,030 | $ 195,684 | $ 187,463 |
| End of the period | | | |
| Cash and cash equivalents | $ 259,722 | $ 474,817 | $ 69,619 |
| Restricted cash | 86,841 | 65,213 | 126,065 |
| Total cash, cash equivalents and restricted cash, end of period | $ 346,563 | $ 540,030 | $ 195,684 |

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Supplemental disclosure of cash flow information:** | | | |
| Cash paid for interest | $ 76,262 | $ 111,688 | $ 142,987 |
| Cash paid (received) for income taxes, net | $ 4,827 | $ (5,961) | $ (3,093) |
| **Supplemental disclosure of non-cash investing and financing activities:** | | | |
| Deconsolidation of securitization trust (VIE asset/liability reductions) | $ (802,196) | $ — | $ (1,239,627) |
| Deconsolidation of interest in joint ventures | — | (5,145) | — |
| Accrual of distribution payable | 23,912 | (13,164) | 13,164 |
| Foreclosure of loans held for investment, net of provision for loan losses | — | — | 127,356 |
| Right-of-use lease assets and operating lease liabilities | 5,435 | (1,393) | 27,496 |
| Conversion of Class B-3 common stock to Class A common stock | — | — | 444 |

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

## 1. Business and Organization

On June 24, 2021, BrightSpire Capital, Inc. (together with its consolidated subsidiaries, the “Company”) changed its name from Colony Credit Real Estate, Inc. As of June 25, 2021, the Company also changed its principal place of business and corporate headquarters from Los Angeles to New York City, now located at 590 Madison Avenue, 33rd Floor, New York, NY 10022. The Company will continue to be publicly traded on the New York Stock Exchange, trading under the new ticker symbol, BRSP.

BrightSpire Capital, Inc. is a commercial real estate (“CRE”) credit real estate investment trust (“REIT”) focused on originating, acquiring, financing and managing a diversified portfolio consisting primarily of CRE debt investments and net leased properties predominantly in the United States. CRE debt investments primarily consist of first mortgage loans, which the Company expects to be its primary investment strategy. Additionally, the Company may selectively originate mezzanine loans and make preferred equity investments, which may include profit participations. The mezzanine loans and preferred investments equity may be in conjunction with the Company’s origination of corresponding first mortgages on the same properties. Net leased properties consist of CRE properties with long-term leases to tenants on a net-lease basis, where such tenants generally will be responsible for property operating expenses such as insurance, utilities, maintenance capital expenditures and real estate taxes. The Company will continue to target net leased equity investments on a selective basis. The Company also currently has investments in CRE debt securities primarily consisting of commercial mortgage-backed securities (“CMBS”) (“B-pieces” of a CMBS securitization pool) or CRE collateralized loan obligations (“CLOs”) (including the junior tranches thereof, collateralized by pools of CRE debt investments).

The Company was organized in the state of Maryland on August 23, 2017 and maintains key offices in New York, New York and Los Angeles, California. The Company elected to be taxed as a REIT under the Internal Revenue Code of 1986, as amended, beginning with the taxable year ended December 31, 2018. The Company conducts all activities and holds substantially all assets and liabilities through the Company’s operating subsidiary, BrightSpire Capital Operating Company, LLC, (formerly known as Credit RE Operating Company, LLC, the “OP”). At December 31, 2021, the Company owned 97.7% of the OP, as its sole managing member. The remaining 2.3% is owned as noncontrolling interests.

*The Internalization*

On April 30, 2021, the Company completed the internalization of the Company’s management and operating functions and terminated its relationship with CLNC Manager, LLC (the “Manager”), a subsidiary of DigitalBridge Group, Inc., formerly known as Colony Capital, Inc. (“DigitalBridge”), in accordance with that termination agreement dated April 4, 2021 between the Company, the OP, the Manager and Colony Capital Investment Advisors, LLC (the “Termination Agreement,” and the transactions contemplated thereunder, the “Internalization”). Pursuant to the Termination Agreement, the Company paid the Manager a one-time termination fee of $102.3 million. The Company will no longer pay management or incentive fees to the Manager for any post-closing period and the Company has assumed general and administrative expenses directly. The Company achieved a savings in operating costs as a result of the Internalization. Further, in connection with the Internalization, certain affiliates of the Company and the Manager entered into a transition services agreement (“TSA”) to facilitate an orderly internalization transition of the management of the Company’s operations. The TSA expired on September 30, 2021, at which time the Company fully transitioned the management of its operations.

The Company’s executive team remains unchanged, including Michael J. Mazzei, Chief Executive Officer; Andrew E. Witt, President and Chief Operating Officer; Frank V. Saracino, Chief Financial Officer and Executive Vice President; David A. Palamé, General Counsel, Secretary and Executive Vice President; George Kok, Chief Credit Officer; and Daniel Katz, Head of Originations. Following the Company’s 2021 Annual Meeting of Stockholders (the “Annual Meeting”), DigitalBridge no longer has affiliated representatives on the Company’s board of directors. The Company’s board of directors is comprised of seven members, including six incumbent independent directors, led by Catherine D. Rice, the Company’s Independent Chairperson, Vernon Schwartz, John Westerfield, Winston W. Wilson, Kim S. Diamond, Catherine F. Long and Michael J. Mazzei, the Company’s Chief Executive Officer. Ms. Diamond and Ms. Long were appointed to the board of directors during 2021. Additionally, certain employees that have contributed substantially to the Company’s investment, underwriting, portfolio and asset management, loan servicing, financial reporting, treasury, legal, tax, credit, risk and compliance responsibilities seamlessly moved forward with the Company.

Segment Realignment

During the first quarter of 2021, the Company realigned the business and reportable segment information to reflect how the Chief Operating Decision Makers ("CODM") regularly review and manage the business. Refer to Note 18, "Segment Reporting" for further detail.

Impact of COVID-19

The COVID-19 pandemic has negatively impacted CRE credit REITs across the industry, as well as other companies that own and operate commercial real estate investments. Throughout 2020, continuing into the fourth quarter of 2021, countries around the world continued to face healthcare and economic challenges arising from the coronavirus, or COVID-19. Efforts to address the pandemic, such as social distancing, closures or reduced capacity of retail and service outlets, hotels, factories and public venues, often mandated by governments, have had a significant impact on the global economy and financial markets across major industries, including many sectors of real estate. In particular, the Company's loans and preferred equity held for investment and real estate investments in the hospitality and retail sectors have experienced or anticipate a myriad of challenges, including, but not limited to: significant declines in operating cash flows of the Company's investments which in turn affect their ability to meet debt service and covenant requirements on investment-level debt (non-recourse to the Company); flexible lease payment terms sought by tenants; increased property operating costs such as labor and supplies as a result of COVID-19; potential payment defaults on the Company's loans and preferred equity held for investment; and a distressed market affecting real estate values in general. The COVID-19 crisis may also lead to heightened risk of litigation at the investment and corporate level, with an ensuing increase in litigation and related costs.

The volatility in equity and debt markets, and the economic fallout from COVID-19 may affect the valuation of the Company's financial assets, carried at fair value. The Company's consideration and assessment of impairment is discussed further in Note 3, "Loans and Preferred Equity Held for Investment, net," Note 5, "Real Estate Securities, Available for Sale," Note 6, "Real Estate, net and Real Estate Held for Sale" and Note 14, "Fair Value."

A prolonged economic downturn as a result of efforts to contain COVID-19 may continue to negatively affect the Company's financial condition and results of operations. While the extent and duration of the broad effects of COVID-19 on the global economy and the Company remain unclear, the Company believes it has materially addressed overall recoverability in value across its assets based upon external factors known to date and assumptions using the Company's best estimate at this time. The Company will continue to monitor the progress of the COVID-19 crisis and reassess its effects on the Company's results of operations and recoverability in value across its assets as conditions change.

**2. Summary of Significant Accounting Policies**

The significant accounting policies of the Company are described below. The accounting policies of the Company's unconsolidated ventures are substantially similar to those of the Company.

Basis of Presentation

The accompanying consolidated financial statements include the accounts of the Company and its controlled subsidiaries. All significant intercompany accounts and transactions have been eliminated. The portions of equity, net income and other comprehensive income of consolidated subsidiaries that are not attributable to the parent are presented separately as amounts attributable to noncontrolling interests in the consolidated financial statements.

Use of Estimates

The preparation of consolidated financial statements in conformity with generally accepted accounting principles in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates and assumptions.

Restructuring Charges

On April 4, 2021, the Company entered into the Termination Agreement with the Manager whereby its management agreement terminated on April 30, 2021. The termination of the management agreement resulted in a material change in the management structure of the Company, and was accounted for under ASC 420, *Exit or disposal cost obligations.* The one-time payment made to the Manager under the Termination Agreement, and other associated costs, were recorded within restructuring charges on the consolidated statement of operations. See Note 20, "Restructuring Charges" for additional discussion of the Company's internalization.

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its controlled subsidiaries. The portions of the equity, net income and other comprehensive income of consolidated subsidiaries that are not attributable to the parent are presented separately as amounts attributable to noncontrolling interests in the consolidated financial statements.

The Company consolidates entities in which it has a controlling financial interest by first considering if an entity meets the definition of a variable interest entity ("VIE") for which the Company is deemed to be the primary beneficiary, or if the Company has the power to control an entity through a majority of voting interest or through other arrangements.

*Variable Interest Entities*

*Variable Interest Entities*—A VIE is an entity that either (i) lacks sufficient equity to finance its activities without additional subordinated financial support from other parties; (ii) whose equity holders lack the characteristics of a controlling financial interest; or (iii) is established with non-substantive voting rights. A VIE is consolidated by its primary beneficiary, which is defined as the party who has a controlling financial interest in the VIE through (a) power to direct the activities of the VIE that most significantly affect the VIE's economic performance, and (b) obligation to absorb losses or right to receive benefits of the VIE that could be significant to the VIE. The Company also considers interests held by its related parties, including de facto agents. The Company assesses whether it is a member of a related party group that collectively meets the power and benefits criteria and, if so, whether the Company is most closely associated with the VIE. In performing the related party analysis, the Company considers both qualitative and quantitative factors, including, but not limited to: the amount and characteristics of its investment relative to the related party; the Company's and the related party's ability to control or significantly influence key decisions of the VIE including consideration of involvement by de facto agents; the obligation or likelihood for the Company or the related party to fund operating losses of the VIE; and the similarity and significance of the VIE's business activities to those of the Company and the related party. The determination of whether an entity is a VIE, and whether the Company is the primary beneficiary, may involve significant judgment, including the determination of which activities most significantly affect the entities' performance, and estimates about the current and future fair values and performance of assets held by the VIE.

*Voting Interest Entities*—Unlike VIEs, voting interest entities have sufficient equity to finance their activities and equity investors exhibit the characteristics of a controlling financial interest through their voting rights. The Company consolidates such entities when it has the power to control these entities through ownership of a majority of the entities' voting interests or through other arrangements.

At each reporting period, the Company reassesses whether changes in facts and circumstances cause a change in the status of an entity as a VIE or voting interest entity, and/or a change in the Company's consolidation assessment.

Changes in consolidation status are applied prospectively. An entity may be consolidated as a result of this reassessment, in which case, the assets, liabilities and noncontrolling interest in the entity are recorded at fair value upon initial consolidation. Any existing equity interest held by the Company in the entity prior to the Company obtaining control will be remeasured at fair value, which may result in a gain or loss recognized upon initial consolidation. However, if the consolidation represents an asset acquisition of a voting interest entity, the Company's existing interest in the acquired assets, if any, is not remeasured to fair value but continues to be carried at historical cost. The Company may also deconsolidate a subsidiary as a result of this reassessment, which may result in a gain or loss recognized upon deconsolidation depending on the carrying values of deconsolidated assets and liabilities compared to the fair value of any interests retained.

As of December 31, 2021, the Company has identified certain consolidated and unconsolidated VIEs. Assets of each of the VIEs, other than the OP, may only be used to settle obligations of the respective VIE. Creditors of each of the VIEs have no recourse to the general credit of the Company.

*Consolidated VIEs*

The Company's operating subsidiary, the OP, is a limited liability company that has governing provisions that are the functional equivalent of a limited partnership. The Company holds the majority of membership interest in the OP, is the managing member of the OP and exercises full responsibility, discretion and control over the day-to-day management of the OP. The noncontrolling interests in the OP do not have substantive liquidation rights, substantive kick-out rights without cause, or substantive participating rights that could be exercised by a simple majority of noncontrolling interest members (including by such a member unilaterally). The absence of such rights, which represent voting rights in a limited partnership equivalent structure, would render the OP to be a VIE. The Company, as managing member, has the power to direct the core activities of the OP that most significantly affect the OP's performance, and through its majority interest in the OP, has both the right to receive benefits from and the obligation to absorb losses of the OP. Accordingly, the Company is the primary beneficiary of the

OP and consolidates the OP. As the Company conducts its business and holds its assets and liabilities through the OP, the total assets and liabilities of the OP represent substantially all of the total consolidated assets and liabilities of the Company.

Other consolidated VIEs include the Investing VIEs (as defined and discussed below) and certain operating real estate properties that have noncontrolling interests. At December 31, 2021, the noncontrolling interests in the operating real estate properties represent third party joint venture partners with ownership ranging from 5.0% to 11.0%. These noncontrolling interests do not have substantive kick-out nor participating rights.

*Investing VIEs*

The Company's investments in securitization financing entities ("Investing VIEs") include subordinate first-loss tranches of securitization trusts, which represent interests in such VIEs. Investing VIEs are structured as pass through entities that receive principal and interest payments from the underlying debt collateral assets and distribute those payments to the securitization trust's certificate holders, including the most subordinate tranches of the securitization trust. Generally, a securitization trust designates the most junior subordinate tranche outstanding as the controlling class, which entitles the holder of the controlling class to unilaterally appoint and remove the special servicer for the trust, and as such may qualify as the primary beneficiary of the trust.

If it is determined that the Company is the primary beneficiary of an Investing VIE as a result of acquiring the subordinate first-loss tranches of the securitization trust, the Company would consolidate the assets, liabilities, income and expenses of the entire Investing VIE. The assets held by an Investing VIE are restricted and can only be used to fulfill its own obligations. The obligations of an Investing VIE have neither any recourse to the general credit of the Company as the consolidating parent entity of an Investing VIE, nor to any of the Company's other consolidated entities.

As of December 31, 2021, the Company held subordinate tranches of a securitization trust in one Investing VIE for which the Company has determined it is the primary beneficiary because it has the power to direct the activities that most significantly impact the economic performance of the securitization trust. The Company's subordinate tranches of the securitization trust, which represents the retained interest and related interest income, are eliminated in consolidation. As a result, all of the assets, liabilities (obligations to the certificate holders of the securitization trust, less the Company's retained interest from the subordinate tranches of the securitization trust), income and expenses of the Investing VIE are presented in the consolidated financial statements of the Company although the Company legally owns the subordinate tranches of the securitization trust only. Regardless of the presentation, the Company's consolidated financial statements of operations ultimately reflect the net income attributable to its retained interest in the subordinate tranches of the securitization trust.

During the year ended December 31, 2021, the Company recognized unrealized gains of $41.9 million and realized losses of $36.6 million. In the second quarter of 2021, the Company sold its retained investments in the subordinate tranches of one securitization trust for $28.7 million in total proceeds. In connection with the sale, the Company recognized an unrealized gain of $19.5 million. The Company also recognized a realized loss of $19.5 million when the accumulated losses related to the retained investment were reversed and subsequently recorded to realized loss on mortgage loans and obligations held in securitization trusts, net. The Company deconsolidated the securitization trust with gross assets and liabilities of approximately $830.9 million and $802.2 million, respectively, which excludes accrued interest receivable and payable amounts of $3.0 million and $2.8 million, respectively.

During the year ended December 31, 2021, the Company recorded a realized loss of $17.1 million related to the sale of two underlying loans held within one of its retained investments in the subordinate tranches of a securitization trust. The Company also recorded an unrealized gain of $13.8 million when the accumulated losses related to the retained investment were reversed and subsequently recorded to realized loss on mortgage loans and obligations held in securitization trusts, net. The realized losses were previously included in the Company's loss projections and therefore no additional fair value write downs were required. Refer to Note 5, "Real Estate Securities, Available for Sale" for further discussion.

The Company elected the fair value option for the initial recognition of the assets and liabilities of its consolidated Investing VIEs. Interest income and interest expense associated with the Investing VIEs are presented separately on the consolidated statements of operations, and the assets and liabilities of the Investing VIEs are separately presented as "Mortgage loans held in securitization trusts, at fair value" and "Mortgage obligations issued by securitization trusts, at fair value," respectively, on the consolidated balance sheets. Refer to Note 14, "Fair Value" for further discussion.

The Company has adopted guidance issued by the Financial Accounting Standards Board ("FASB"), allowing the Company to measure both the financial assets and liabilities of a qualifying collateralized financing entity ("CFE"), such as its Investing VIEs, using the fair value of either the CFE's financial assets or financial liabilities, whichever is more observable. A CFE is a

VIE that holds financial assets, issues beneficial interests in those assets and has no more than nominal equity, and the beneficial interests have contractual recourse only to the related assets of the CFE. As the liabilities of the Company's Investing VIEs are marketable securities with observable trade data, their fair value is more observable and is referenced to determine fair value of the assets of its Investing VIEs. Refer to Note 14, "Fair Value" for further discussion.

*Unconsolidated VIEs*

As of December 31, 2021 the Company identified unconsolidated VIEs related to its CRE debt investments. As of December 31, 2020, the Company identified unconsolidated VIEs related to its securities investments, indirect interests in real estate through real estate private equity funds ("PE Investments") and CRE debt investments. Based on management's analysis, the Company determined that it is not the primary beneficiary of the above VIEs. Accordingly, the VIEs are not consolidated in the Company's financial statements as of December 31, 2021 or 2020.

Assets of each of the VIEs may only be used to settle obligations of the respective VIE. Creditors of each of the VIEs have no recourse to the general credit of the Company.

The following table presents the Company's classification, carrying value and maximum exposure of unconsolidated VIEs as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | | December 31, 2020 | |
|---|---|---|---|---|
| | Carrying Value | Maximum Exposure to Loss | Carrying Value | Maximum Exposure to Loss |
| Loans and preferred equity held for investment, net | $ — | $ — | $ 18,141 | $ 18,141 |
| Real estate securities, available for sale | — | — | 10,389 | 10,188 |
| Investments in unconsolidated ventures | 16,200 | 16,200 | 298,554 | 323,608 |
| Total assets | $ 16,200 | $ 16,200 | $ 327,084 | $ 351,937 |

The Company did not provide financial support to the unconsolidated VIEs during the years ended December 31, 2021 and 2020. As of December 31, 2021 and 2020, there were no explicit arrangements or implicit variable interests that could require the Company to provide financial support to the unconsolidated VIEs. The maximum exposure to loss of real estate securities, available for sale was determined as the amortized cost. See Note 5, "Real Estate Securities, Available for Sale" for further discussion on fair value of the real estate securities. The maximum exposure to loss of investments in unconsolidated ventures and loans and preferred equity held for investment, net was determined as the carrying value plus any future funding commitments. Refer to Note 3, "Loans and Preferred Equity Held for Investment, net" and Note 17, "Commitments and Contingencies" for further discussion.

*Noncontrolling Interests*

*Noncontrolling Interests in Investment Entities*—This represents interests in consolidated investment entities held by third party joint venture partners and prior to the closing of the Company's formation transactions (the "Combination") on January 31, 2018, such interests held by private funds managed by DigitalBridge. Subsequent to the Combination, the Company entered into a preferred financing arrangement with Goldman Sachs ("GS") limited to interests in four co-investments and a triple-net industrial distribution center. During the fourth quarter of 2021, four co-investments were sold in the Co-Invest Portfolio Sale (refer to Note 4, "Investments in Unconsolidated Ventures" for more details on this transaction).

Allocation of net income or loss is generally based upon relative ownership interests held by equity owners in each investment entity, or based upon contractual arrangements that may provide for disproportionate allocation of economic returns among equity interests, including using a hypothetical liquidation at book value ("HLBV") basis, where applicable and substantive. HLBV uses a balance sheet approach, which measures each party's capital account at the end of a period assuming that the subsidiary was liquidated or sold at book value. Each party's share of the subsidiary's earnings or loss is calculated by measuring the change in the party's capital account from the beginning of the period in question to the end of period, adjusting for effects of distributions and new investments.

*Noncontrolling Interests in the Operating Partnership*—This represents membership interests in the OP held by an affiliate of DigitalBridge. Noncontrolling interests in the OP are allocated a share of net income or loss in the OP based on their weighted average ownership interest in the OP during the period. Noncontrolling interests in the OP have the right to require the OP to redeem part or all of the membership units in the OP for cash based on the market value of an equivalent number of shares of Class A common stock at the time of redemption, or at the Company's election as managing member of the OP, through the issuance of shares of Class A common stock on a one-for-one basis. At the end of each reporting period, noncontrolling interests in the OP is adjusted to reflect their ownership percentage in the OP at the end of the period, through a reallocation between controlling and noncontrolling interests in the OP, as applicable.

Comprehensive Income (Loss)

The Company reports consolidated comprehensive income (loss) in separate statements following the consolidated statements of operations. Comprehensive income (loss) is defined as the change in equity resulting from net income (loss) and other comprehensive income ("OCI"). The components of OCI include unrealized gain (loss) on CRE debt securities available for sale for which the fair value option was not elected, gain (loss) on derivative instruments used in the Company's risk management activities used for economic hedging purposes ("designated hedges"), and gain (loss) on foreign currency translation.

Fair Value Measurement

Fair value is based on an exit price, defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. Where appropriate, the Company makes adjustments to estimated fair values to appropriately reflect counterparty credit risk as well as the Company's own credit-worthiness.

The estimated fair value of financial assets and financial liabilities are categorized into a three-tier hierarchy, prioritized based on the level of transparency in inputs used in the valuation techniques, as follows:

*Level 1*—Quoted prices (unadjusted) in active markets for identical assets or liabilities.

*Level 2*—Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in non-active markets, or valuation techniques utilizing inputs that are derived principally from or corroborated by observable data directly or indirectly for substantially the full term of the financial instrument.

*Level 3*—At least one assumption or input is unobservable and it is significant to the fair value measurement, requiring significant management judgment or estimate.

Where the inputs used to measure the fair value of a financial instrument fall into different levels of the fair value hierarchy, the financial instrument is categorized within the hierarchy based on the lowest level of input that is significant to its fair value measurement.

Fair Value Option

The fair value option provides an option to elect fair value as an alternative measurement for selected financial instruments. Gains and losses on items for which the fair value option has been elected are reported in earnings. The fair value option may be elected only upon the occurrence of certain specified events, including when the Company enters into an eligible firm commitment, at initial recognition of the financial instrument, as well as upon a business combination or consolidation of a subsidiary. The election is irrevocable unless a new election event occurs.

The Company has elected the fair value option for PE Investments. The Company has also elected the fair value option to account for the eligible financial assets and liabilities of its consolidated Investing VIEs in order to mitigate potential accounting mismatches between the carrying value of the instruments and the related assets and liabilities to be consolidated. The Company has adopted the measurement alternative allowing the Company to measure both the financial assets and financial liabilities of a qualifying CFE it consolidates using the fair value of either the CFE's financial assets or financial liabilities, whichever is more observable.

Business Combinations

*Definition of a Business*—The Company evaluates each purchase transaction to determine whether the acquired assets meet the definition of a business. If substantially all of the fair value of gross assets acquired is concentrated in a single identifiable asset or a group of similar identifiable assets, then the set of transferred assets and activities is not a business. If not, for an acquisition to be considered a business, it would have to include an input and a substantive process that together significantly contribute to the ability to create outputs (i.e., there is a continuation of revenue before and after the transaction). A substantive process is not ancillary or minor, cannot be replaced without significant costs, effort or delay or is otherwise considered unique or scarce. To qualify as a business without outputs, the acquired assets would require an organized workforce with the necessary skills, knowledge and experience that performs a substantive process.

*Asset Acquisitions*—For acquisitions that are not deemed to be businesses, the assets acquired are recognized based on their cost to the Company as the acquirer and no gain or loss is recognized. The cost of assets acquired in a group is allocated to individual assets within the group based on their relative fair values and does not give rise to goodwill. Transaction costs related to the acquisition of assets are included in the cost basis of the assets acquired.

*Business Combinations*—The Company accounts for acquisitions that qualify as business combinations by applying the acquisition method. Transaction costs related to the acquisition of a business are expensed as incurred and excluded from the fair value of consideration transferred. The identifiable assets acquired, liabilities assumed and noncontrolling interests in an acquired entity are recognized and measured at their estimated fair values. The excess of the fair value of consideration transferred over the fair values of identifiable assets acquired, liabilities assumed and noncontrolling interests in an acquired entity, net of fair value of any previously held interest in the acquired entity, is recorded as goodwill. Such valuations require management to make significant estimates and assumptions.

Cash and Cash Equivalents

Short-term, highly liquid investments with original maturities of three months or less are considered to be cash equivalents. The Company did not have any cash equivalents at December 31, 2021 or December 31, 2020. The Company's cash is held with major financial institutions and may at times exceed federally insured limits.

Restricted Cash

Restricted cash consists primarily of borrower escrow deposits, tenant escrow deposits and real estate capital expenditure reserves.

Loans and Preferred Equity Held for Investment

The Company originates and purchases loans and preferred equity held for investment. The accounting framework for loans and preferred equity held for investment depends on the Company's strategy whether to hold or sell the loan, whether the loan was credit-impaired at the time of acquisition, or if the lending arrangement is an acquisition, development and construction loan.

*Loans and Preferred Equity Held for Investment*

Loans and preferred equity that the Company has the intent and ability to hold for the foreseeable future are classified as held for investment. Originated loans and preferred equity are recorded at amortized cost, or outstanding unpaid principal balance plus exit fees less net deferred loan fees. Net deferred loan fees include unamortized origination and other fees charged to the borrower less direct incremental loan origination costs incurred by the Company. Purchased loans and preferred equity are recorded at amortized cost, or unpaid principal balance plus purchase premium or less unamortized discount. Costs to purchase loans and preferred equity are expensed as incurred.

*Interest Income*—Interest income is recognized based upon contractual interest rate and unpaid principal balance of the loans and preferred equity investments. Net deferred loan fees on originated loans and preferred equity investments are deferred and amortized as adjustments to interest income over the expected life of the loans and preferred equity investments using the effective yield method. Premium or discount on purchased loans and preferred equity investments are amortized as adjustments to interest income over the expected life of the loans and preferred equity investments using the effective yield method. When a loan or preferred equity investment is prepaid, prepayment fees and any excess of proceeds over the carrying amount of the loan or preferred equity investment is recognized as additional interest income.

The Company has debt investments in its portfolio that contain a payment-in-kind ("PIK") provision. Contractual PIK interest, which represents contractually deferred interest added to the loan balance that is due at the end of the loan term, is generally recorded on an accrual basis to the extent such amounts are expected to be collected. The Company will generally cease accruing PIK interest if there is insufficient value to support the accrual or management does not expect the borrower to be able to pay all principal and interest due.

*Nonaccrual*—Accrual of interest income is suspended on nonaccrual loans and preferred equity investments. Loans and preferred equity investments that are past due 90 days or more as to principal or interest, or where reasonable doubt exists as to timely collection, are generally considered nonperforming and placed on nonaccrual status. Interest receivable is reversed against interest income when loans and preferred equity investments are placed on nonaccrual status. Interest collected is recognized on a cash basis by crediting income when received; or if ultimate collectability of loan and preferred equity principal is uncertain, interest collected is recognized using a cost recovery method by applying interest collected as a reduction to loan and preferred equity carrying value. Loans and preferred equity investments may be restored to accrual status when all principal and interest are current and full repayment of the remaining contractual principal and interest are reasonably assured.

*Loans Held for Sale*

Loans that the Company intends to sell or liquidate in the foreseeable future are classified as held for sale. Loans held for sale are carried at the lower of amortized cost or fair value less disposal cost, with valuation changes recognized as impairment loss. Loans held for sale are not subject to allowance for loan losses. Net deferred loan origination fees and loan purchase premiums or discounts are deferred and capitalized as part of the carrying value of the held for sale loan until the loan is sold, therefore included in the periodic valuation adjustments based on lower of cost or fair value less disposal cost.

At December 31, 2021 and December 31, 2020, the Company had no loans classified as held for sale.

*Acquisition, Development and Construction (“ADC”) Arrangements*

The Company provides loans to third party developers for the acquisition, development and construction of real estate. Under an ADC arrangement, the Company participates in the expected residual profits of the project through the sale, refinancing or other use of the property. The Company evaluates the characteristics of each ADC arrangement, including its risks and rewards, to determine whether they are more similar to those associated with a loan or an investment in real estate. ADC arrangements with characteristics implying loan classification are presented as loans held for investment and result in the recognition of interest income. ADC arrangements with characteristics implying real estate joint ventures are presented as investments in unconsolidated joint ventures and are accounted for using the equity method. The classification of each ADC arrangement as either loan receivable or real estate joint venture involves significant judgment and relies on various factors, including market conditions, amount and timing of expected residual profits, credit enhancements in the form of guaranties, estimated fair value of the collateral, and significance of borrower equity in the project, among others. The classification of ADC arrangements is performed at inception, and periodically reassessed when significant changes occur in the circumstances or conditions described above.

Operating Real Estate

*Real Estate Acquisitions*—Real estate acquired in acquisitions that are deemed to be business combinations is recorded at the fair values of the acquired components at the time of acquisition, allocated among land, buildings, improvements, equipment and lease-related tangible and identifiable intangible assets and liabilities, including forgone leasing costs, in-place lease values and above- or below-market lease values. Real estate acquired in acquisitions that are deemed to be asset acquisitions is recorded at the total value of consideration transferred, including transaction costs, and allocated to the acquired components based upon relative fair value. The estimated fair value of acquired land is derived from recent comparable sales of land and listings within the same local region based on available market data. The estimated fair value of acquired buildings and building improvements is derived from comparable sales, discounted cash flow analysis using market-based assumptions, or replacement cost, as appropriate. The fair value of site and tenant improvements is estimated based upon current market replacement costs and other relevant market rate information.

*Real Estate Held for Investment*

Real estate held for investment is carried at cost less accumulated depreciation.

*Costs Capitalized or Expensed*—Expenditures for ordinary repairs and maintenance are expensed as incurred, while expenditures for significant renovations that improve or extend the useful life of the asset are capitalized and depreciated over their estimated useful lives.

*Depreciation*—Real estate held for investment, other than land, is depreciated on a straight-line basis over the estimated useful lives of the assets, as follows:

| Real Estate Assets | Term |
|---|---|
| Building (fee interest) | 7 to 48 years |
| Building leasehold interests | Lesser of remaining term of the lease or remaining life of the building |
| Building improvements | Lesser of the useful life or remaining life of the building |
| Land improvements | 1 to 15 years |
| Tenant improvements | Lesser of the useful life or remaining term of the lease |
| Furniture, fixtures and equipment | 2 to 8 years |

*Impairment*—The Company evaluates its real estate held for investment for impairment periodically or whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. The Company evaluates real estate for impairment generally on an individual property basis. If an impairment indicator exists, the Company evaluates the undiscounted future net cash flows that are expected to be generated by the property, including any estimated proceeds from the eventual disposition of the property. If multiple outcomes are under consideration, the Company may apply a probability-weighted approach to the impairment analysis. Based upon the analysis, if the carrying value of a property exceeds its undiscounted future net cash flows, an impairment loss is recognized for the excess of the carrying value of the property over the estimated fair value of the property. In evaluating and/or measuring impairment, the Company considers, among other things, current and estimated future cash flows associated with each property, market information for each sub-market, including, where applicable, competition levels, foreclosure levels, leasing trends, occupancy trends, lease or room rates, and the market prices of similar properties recently sold or currently being offered for sale, and other quantitative and qualitative factors. Another key consideration in this assessment is the Company's assumptions about the highest and best use of its real estate investments and its intent and ability to hold them for a reasonable period that would allow for the recovery of their carrying values. If such assumptions change and the Company shortens its expected hold period, this may result in the recognition of impairment losses. See Note 6, "Real Estate, net and Real Estate Held for Sale" and Note 14, "Fair Value" for further detail.

*Real Estate Held for Sale*

Real estate is classified as held for sale in the period when (i) management approves a plan to sell the asset, (ii) the asset is available for immediate sale in its present condition, subject only to usual and customary terms, (iii) a program is initiated to locate a buyer and actively market the asset for sale at a reasonable price, and (iv) completion of the sale is probable within one year. Real estate held for sale is stated at the lower of its carrying amount or estimated fair value less disposal cost, with any write-down to fair value less disposal cost recorded as an impairment loss. For any increase in fair value less disposal cost subsequent to classification as held for sale, the impairment loss may be reversed, but only up to the amount of cumulative loss previously recognized. Depreciation is not recorded on assets classified as held for sale. At the time a sale is consummated, the excess, if any, of sale price less selling costs over carrying value of the real estate is recognized as a gain.

If circumstances arise that were previously considered unlikely and, as a result, the Company decides not to sell the real estate asset previously classified as held for sale, the real estate asset is reclassified as held for investment. Upon reclassification, the real estate asset is measured at the lower of (i) its carrying amount prior to classification as held for sale, adjusted for depreciation expense that would have been recognized had the real estate been continuously classified as held for investment, and (ii) its estimated fair value at the time the Company decides not to sell.

At December 31, 2021 and 2020, there were two properties held for sale. See Note 6, "Real Estate, net and Real Estate Held for Sale" and Note 18, "Segment Reporting" for further detail.

*Foreclosed Properties*

The Company receives foreclosed properties in full or partial settlement of loans held for investment by taking legal title or physical possession of the properties. Foreclosed properties are generally recognized at the time the real estate is received at foreclosure sale or upon execution of a deed in lieu of foreclosure. Foreclosed properties are initially measured at fair value. If the fair value of the property is lower than the carrying value of the loan, the difference is recognized as provision for loan loss and the cumulative loss allowance on the loan is charged off. The Company periodically evaluates foreclosed properties for subsequent decrease in fair value, which is recorded as an additional impairment loss. Fair value of foreclosed properties is generally based on third party appraisals, broker price opinions, comparable sales or a combination thereof.

Real Estate Securities

The Company classifies its CRE securities investments as available for sale on the acquisition date, which are carried at fair value. Unrealized gains (losses) are recorded as a component of accumulated OCI in the consolidated statements of equity. However, the Company has elected the fair value option for the assets and liabilities of its consolidated Investing VIEs, and as a result, any unrealized gains (losses) on the consolidated Investing VIEs are recorded in unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net in the consolidated statements of operations. As of December 31, 2021, the Company held subordinate tranches of one securitization trust, which represent the Company's retained interest in a securitization trust that the Company consolidates under U.S. GAAP. Refer to Note 5, "Real Estate Securities, Available for Sale" for further discussion.

*Impairment*

CRE securities for which the fair value option is elected are not evaluated for impairment as any change in fair value is recorded in the consolidated statements of operations. Realized losses on such securities are reclassified to realized loss on mortgage loans and obligations held in securitization trust, net as losses occur.

CRE securities for which the fair value option is not elected are evaluated for impairment quarterly. Impairment of a security is considered when the fair value is below the amortized cost basis, which is then further analyzed when: (i) the holder has the intent to sell the impaired security; (ii) it is more likely than not the holder will be required to sell the security; or (iii) the holder does not expect to recover the entire amortized cost of the security. When a CRE security has been deemed impaired due to (i) or (ii) or (iii), the security is written down to its fair value and an impairment is recognized in the consolidated statements of operations. In all other situations, the unrealized loss is bifurcated into: (a) the amount related to expected credit losses; and (b) the amount related to other factors in excess of expected credit losses. The portion of impairment related to expected credit losses is recognized as an allowance for credit losses. The remaining impairment related to other factors is recognized as a component of accumulated OCI in the consolidated statements of equity. CRE securities which are not high-credit quality are considered to have an impairment if the security has an unrealized loss and there has been an adverse change in expected cash flow. The amount of impairment is then bifurcated as discussed above.

During the years ended December 31, 2021 and December 31, 2020, the Company recorded an impairment loss of $1.0 million and $32.6 million related to its CRE securities, respectively. The impairment loss is included in other gain, net in the Company's consolidated statements of operations. Refer to Note 5, "Real Estate Securities, Available for Sale" for further discussion.

Investments in Unconsolidated Ventures

A noncontrolling, unconsolidated ownership interest in an entity may be accounted for using one of (i) equity method where applicable; (ii) fair value option if elected; (iii) fair value through earnings if fair value is readily determinable, including election of net asset value ("NAV") practical expedient where applicable; or (iv) for equity investments without readily determinable fair values, the measurement alternative to measure at cost adjusted for any impairment and observable price changes, as applicable.

Fair value changes of equity method investments under the fair value option are recorded in earnings from investments in unconsolidated ventures. Fair value changes of other equity investments, including adjustments for observable price changes under the measurement alternative, are recorded in other gain (loss).

*Equity Method Investments*

The Company accounts for investments under the equity method of accounting if it has the ability to exercise significant influence over the operating and financial policies of an entity, but does not have a controlling financial interest. The equity method investment is initially recorded at cost and adjusted each period for capital contributions, distributions and the Company's share of the entity's net income or loss as well as other comprehensive income or loss. The Company's share of net income or loss may differ from the stated ownership percentage interest in an entity if the governing documents prescribe a substantive non-proportionate earnings allocation formula or a preferred return to certain investors. For certain equity method investments, the Company records its proportionate share of income on a one to three month lag. Distributions of operating profits from equity method investments are reported as operating activities, while distributions in excess of operating profits are reported as investing activities in the statement of cash flows under the cumulative earnings approach.

At December 31, 2021 the Company's investments in unconsolidated joint ventures consisted of private equity investments and one preferred equity investment held in a joint venture. At December 31, 2020, the Company's investments in unconsolidated joint ventures consisted of investments in private equity investments, senior loans, mezzanine loans and preferred equity held in joint ventures, as well as ADC arrangements accounted for as equity method investments.

*Impairment*

Evaluation of impairment applies to equity method investments and equity investments under the measurement alternative. If indicators of impairment exist, the Company will first estimate the fair value of its investment. In assessing fair value, the Company generally considers, among others, the estimated fair value of the investee, which is based on significant assumptions including the estimated timing and probabilities of the future cash flows of the unconsolidated joint venture, utilizing discount rates and capitalization rates.

For investments under the measurement alternative, if carrying value of the investment exceeds its fair value, an impairment is deemed to have occurred.

For equity method investments, further consideration is made if a decrease in value of the investment is other-than-temporary to determine if impairment loss should be recognized. Assessment of OTTI involves management judgment, including, but not limited to, consideration of the investee's financial condition, operating results, business prospects and creditworthiness, the Company's ability and intent to hold the investment until recovery of its carrying value. If management is unable to reasonably assert that an impairment is temporary or believes that the Company may not fully recover the carrying value of its investment, then the impairment is considered to be other-than-temporary.

Investments that are other-than-temporarily impaired are written down to their estimated fair value. Impairment loss is recorded in earnings from investments in unconsolidated ventures for equity method investments and in other gain (loss) for investments under the measurement alternative.

Identifiable Intangibles

In a business combination or asset acquisition, the Company may recognize identifiable intangibles that meet either or both the contractual-legal criterion or the separability criterion. An indefinite-lived intangible is not subject to amortization until such time that its useful life is determined to no longer be indefinite, at which point, it will be assessed for impairment and its adjusted carrying amount amortized over its remaining useful life. Finite-lived intangibles are amortized over their useful life in a manner that reflects the pattern in which the intangible is being consumed if readily determinable, such as based upon expected cash flows; otherwise they are amortized on a straight line basis. The useful life of all identified intangibles will be periodically reassessed and if useful life changes, the carrying amount of the intangible will be amortized prospectively over the revised useful life.

*Lease Intangibles*—Identifiable intangibles recognized in acquisitions of operating real estate properties generally include in-place leases, above- or below-market leases and deferred leasing costs, all of which have finite lives. In-place leases generate value over and above the tangible real estate because a property that is occupied with leased space is typically worth more than a vacant building without an operating lease contract in place. The estimated fair value of acquired in-place leases is derived based on management's assessment of costs avoided from having tenants in place, including lost rental income, rent concessions and tenant allowances or reimbursements, that hypothetically would be incurred to lease a vacant building to its actual existing occupancy level on the valuation date. The net amount recorded for acquired in-place leases is included in intangible assets and amortized on a straight-line basis as an increase to depreciation and amortization expense over the remaining term of the applicable leases. If an in-place lease is terminated, the unamortized portion is charged to depreciation and amortization expense.

The estimated fair value of the above- or below-market component of acquired leases represents the present value of the difference between contractual rents of acquired leases and market rents at the time of the acquisition for the remaining lease term, discounted for tenant credit risks. Above- or below-market operating lease values are amortized on a straight-line basis as a decrease or increase to rental income, respectively, over the applicable lease terms. This includes fixed rate renewal options in acquired leases that are below-market, which are amortized to decrease rental income over the renewal period. Above- or below-market ground lease obligations are amortized on a straight-line basis as a decrease or increase to rent expense, respectively, over the applicable lease terms. If the above- or below-market operating lease values or above- or below-market ground lease obligations are terminated, the unamortized portion of the lease intangibles are recorded in rental income or rent expense, respectively.

Deferred leasing costs represent management's estimate of the avoided leasing commissions and legal fees associated with an existing in-place lease. The net amount is included in intangible assets and amortized on a straight-line basis as an increase to depreciation and amortization expense over the remaining term of the applicable lease.

Transfers of Financial Assets

Sale accounting for transfers of financial assets requires the transfer of an entire financial asset, a group of financial assets in its entirety or if a component of the financial asset is transferred, that the component meets the definition of a participating interest with characteristics that mirror the original financial asset.

Transfers of financial assets are accounted for as sales when control over the assets has been surrendered. If the Company has any continuing involvement, rights or obligations with the transferred financial asset (outside of standard representations and warranties), sale accounting requires that the transfer meets the following sale conditions: (1) the transferred asset has been legally isolated; (2) the transferee has the right (free of conditions that constrain it from taking advantage of that right) to pledge or exchange the transferred asset; and (3) the Company does not maintain effective control over the transferred asset through an agreement that provides for (a) both an entitlement and an obligation by the Company to repurchase or redeem the asset before its maturity, (b) the unilateral ability by the Company to reclaim the asset and a more than trivial benefit attributable to that ability, or (c) the transferee requiring the Company to repurchase the asset at a price so favorable to the transferee that it is probable the repurchase will occur.

If sale accounting is met, the transferred financial asset is removed from the balance sheet and a net gain or loss is recognized upon sale, taking into account any retained interests. Transfers of financial assets that do not meet the criteria for sale are accounted for as financing transactions, or secured borrowing.

Derivative Instruments and Hedging Activities

The Company uses derivative instruments to manage its foreign currency risk and interest rate risk. The Company does not use derivative instruments for speculative or trading purposes. All derivative instruments are recorded at fair value and included in other assets or other liabilities on a gross basis on the balance sheet. The accounting for changes in fair value of derivatives depends upon whether or not the Company has elected to designate the derivative in a hedging relationship and the derivative qualifies for hedge accounting. The Company has economic hedges that have not been designated for hedge accounting.

Changes in fair value of derivatives not designated as accounting hedges are recorded in the statement of operations in other gain (loss), net.

For designated accounting hedges, the relationships between hedging instruments and hedged items, risk management objectives and strategies for undertaking the accounting hedges as well as the methods to assess the effectiveness of the derivative prospectively and retrospectively, are formally documented at inception. Hedge effectiveness relates to the amount by which the gain or loss on the designated derivative instrument exactly offsets the change in the hedged item attributable to the hedged risk. If it is determined that a derivative is not expected to be or has ceased to be highly effective at hedging the designated exposure, hedge accounting is discontinued.

*Cash Flow Hedges*—The Company uses interest rate caps and swaps to hedge its exposure to interest rate fluctuations in forecasted interest payments on floating rate debt. The effective portion of the change in fair value of the derivative is recorded in accumulated other comprehensive income, while hedge ineffectiveness is recorded in earnings. If the derivative in a cash flow hedge is terminated or the hedge designation is removed, related amounts in accumulated other comprehensive income (loss) are reclassified into earnings.

*Net Investment Hedges*—The Company uses foreign currency hedges to protect the value of its net investments in foreign subsidiaries or equity method investees whose functional currencies are not U.S. dollars. Changes in the fair value of derivatives used as hedges of net investment in foreign operations, to the extent effective, are recorded in the cumulative translation adjustment account within accumulated other comprehensive income (loss).

At the end of each quarter, the Company reassesses the effectiveness of its net investment hedges and as appropriate, dedesignates the portion of the derivative notional amount that is in excess of the beginning balance of its net investments as undesignated hedges.

Release of accumulated other comprehensive income related to net investment hedges occurs upon losing a controlling financial interest in an investment or obtaining control over an equity method investment. Upon sale, complete or substantially complete liquidation of an investment in a foreign subsidiary, or partial sale of an equity method investment, the gain or loss on the related net investment hedge is reclassified from accumulated other comprehensive income to earnings. Refer to Note 15, “Derivatives” for further discussion on the Company’s derivative and hedging activity.

Financing Costs

Financing costs primarily include debt discounts and premiums as well as deferred financing costs. Deferred financing costs represent commitment fees, legal and other third-party costs associated with obtaining financing. Costs related to revolving credit facilities are recorded in other assets and are amortized to interest expense using the straight-line basis over the term of the facility. Costs related to other borrowings are recorded net against the carrying value of such borrowings and are amortized to interest expense using the effective interest method. Unamortized deferred financing costs are expensed to realized gain (loss) when the associated facility is repaid before maturity. Costs incurred in seeking financing transactions, which do not close, are expensed in the period in which it is determined that the financing will not occur.

Revenue Recognition

*Property Operating Income*

Property operating income includes the following:

*Rental Income*—Rental income is recognized on a straight-line basis over the non-cancellable term of the related lease which includes the effects of minimum rent increases and rent abatements under the lease. Rents received in advance are deferred.

When it is determined that the Company is the owner of tenant improvements, the cost to construct the tenant improvements, including costs paid for or reimbursed by the tenants, is capitalized. For tenant improvements owned by the Company, the amount funded by or reimbursed by the tenants are recorded as deferred revenue, which is amortized on a straight-line basis as additional rental income over the term of the related lease. Rental income recognition commences when the leased space is substantially ready for its intended use and the tenant takes possession of the leased space.

When it is determined that the tenant is the owner of tenant improvements, the Company's contribution towards those improvements is recorded as a lease incentive, included in deferred leasing costs and intangible assets on the balance sheet, and amortized as a reduction to rental income on a straight-line basis over the term of the lease. Rental income recognition commences when the tenant takes possession of the lease space.

*Tenant Reimbursements*—In net lease arrangements, the tenant is generally responsible for operating expenses related to the property, including real estate taxes, property insurance, maintenance, repairs and improvements. Costs reimbursable from tenants and other recoverable costs are recognized as revenue in the period the recoverable costs are incurred. When the Company is the primary obligor with respect to purchasing goods and services for property operations and has discretion in selecting the supplier and retains credit risk, tenant reimbursement revenue and property operating expenses are presented on a gross basis in the statements of operations. For certain triple net leases where the lessee self-manages the property, hires its own service providers and retains credit risk for routine maintenance contracts, no reimbursement revenue and expense are recognized.

*Hotel Operating Income*—Hotel operating income includes room revenue, food and beverage sales and other ancillary services. Revenue is recognized upon occupancy of rooms, consummation of sales and provision of services.

*Real Estate Securities*

Interest income is recognized using the effective interest method with any premium or discount amortized or accreted through earnings based on expected cash flow through the expected maturity date of the security. On a quarterly basis, the Company reviews, and if appropriate, adjusts its cash flow projections based on inputs and analyses received from external sources, internal models, and the Company's judgment about prepayment rates, the timing and amount of credit losses and other factors. Changes in the amount or timing of cash flows from those originally projected, or from those estimated at the last evaluation date, are considered to be either favorable changes or adverse changes.

Adverse changes in the timing or amount of cash flows on CRE securities could result in the Company recording an increase in the allowance for credit losses. The allowance for credit losses are calculated using a discounted cash flow approach and is measured as the difference between the amortized cost of a CRE security and estimate of cash flows expected to be collected discounted at the effective interest rate used to accrete the CRE security. The allowance for credit losses is recorded as a contra-asset and a reduction in earnings. The allowance for credit losses will be limited to the amount of the unrealized losses on the CRE securities. Any allowance for credit losses in excess of the unrealized losses on the CRE securities are accounted for as a prospective reduction of the effective interest rate. No allowance is recorded for CRE securities in an unrealized gain position. Favorable changes in the discounted cash flow will result in a reduction in the allowance for credit losses, if any. Any reduction in allowance for credit losses is recorded in earnings. If the allowance for credit losses has been reduced to zero, the remaining favorable changes are reflected as a prospective increase to the effective interest rate.

As of April 1, 2020, the Company placed its investment grade and non-investment grade rated CRE securities on cost recovery and as a result, ceased accretion of any discounts to expected maturity and applied any cash interest received against the CRE securities amortized cost basis. Refer to Note 5, “Real Estate Securities, Available for Sale” for further discussion.

Foreign Currency

Assets and liabilities denominated in a foreign currency for which the functional currency is a foreign currency are translated using the exchange rate in effect at the balance sheet date and the corresponding results of operations for such entities are translated using the average exchange rate in effect during the period. The resulting foreign currency translation adjustments are recorded as a component of accumulated other comprehensive income or loss in stockholders’ equity. Upon sale, complete or substantially complete liquidation of a foreign subsidiary, or upon partial sale of a foreign equity method investment, the translation adjustment associated with the investment, or a proportionate share related to the portion of equity method investment sold, is reclassified from accumulated other comprehensive income or loss into earnings.

Assets and liabilities denominated in a foreign currency for which the functional currency is the U.S. dollar are remeasured using the exchange rate in effect at the balance sheet date and the corresponding results of operations for such entities are remeasured using the average exchange rate in effect during the period. The resulting foreign currency remeasurement adjustments are recorded in other gain (loss), net on the consolidated statements of operations.

Disclosures of non-U.S. dollar amounts to be recorded in the future are translated using exchange rates in effect at the date of the most recent balance sheet presented.

Equity-Based Compensation

Equity-classified stock awards granted to executive officers and both independent and non-independent directors are based on the closing price of the Class A common stock on the grant date and recognized on a straight-line basis over the requisite service period of the awards for restricted stock awards. For performance stock units (“PSUs”) the fair value is based on a Monte Carlo simulation as of the grant date and expense is recognized on a straight-line basis over the measurement period. See Note 11, “Equity-Based Compensation” for further discussion.

The compensation expense is adjusted for actual forfeitures upon occurrence. Equity-based compensation is classified within administrative expense in the consolidated statement of operations.

Earnings Per Share

The Company presents both basic and diluted earnings per share (“EPS”) using the two-class method. Basic EPS is calculated by dividing earnings allocated to common shareholders, as adjusted for unallocated earnings attributable to certain participating securities, if any, by the weighted-average number of common shares outstanding during the period. Diluted EPS is based on the weighted-average number of common shares and the effect of potentially dilutive common share equivalents outstanding during the period. The two-class method is an allocation formula that determines earnings per share for each share of common stock and participating securities according to dividends declared and participation rights in undistributed earnings. Under this method, all earnings (distributed and undistributed) are allocated to common shares and participating securities based on their respective rights to receive dividends. The Company has certain share-based payment awards that contain nonforfeitable rights to dividends, which are considered participating securities for the purposes of computing EPS pursuant to the two-class method.

Income Taxes

For U.S. federal income tax purposes, the Company elected to be taxed as a REIT beginning with its taxable year ended December 31, 2018. To qualify as a REIT, the Company must continually satisfy tests concerning, among other things, the real estate qualification of sources of its income, the real estate composition and values of its assets, the amounts it distributes to stockholders and the diversity of ownership of its stock.

To the extent that the Company qualifies as a REIT, it generally will not be subject to U.S. federal income tax to the extent of its distributions to stockholders. The Company believes that all of the criteria to maintain the Company’s REIT qualification have been met for the applicable periods, but there can be no assurance that these criteria will continue to be met in subsequent periods. If the Company were to fail to meet these requirements, it would be subject to U.S. federal income tax and potential interest and penalties, which could have a material adverse impact on its results of operations and amounts available for distributions to its stockholders. The Company's accounting policy with respect to interest and penalties is to classify these amounts as a component of income tax expense, where applicable.

The Company may also be subject to certain state, local and franchise taxes. Under certain circumstances, U.S. federal income and excise taxes may be due on its undistributed taxable income. The Company also holds investments in Europe which are subject to tax in each local jurisdiction.

The Company made joint elections to treat certain subsidiaries as taxable REIT subsidiaries ("TRSs") which may be subject to taxation by U.S. federal, state and local authorities. In general, a TRS of the Company may perform non-customary services for tenants, hold assets that the Company cannot hold directly and engage in most real estate or non-real estate-related business.

Certain subsidiaries of the Company are subject to taxation by U.S. federal, state and local authorities for the periods presented. Income taxes are accounted for by the asset/liability approach in accordance with U.S. GAAP. Deferred taxes, if any, represent the expected future tax consequences when the reported amounts of assets and liabilities are recovered or paid. Such amounts arise from differences between the financial reporting and tax bases of assets and liabilities and are adjusted for changes in tax laws and tax rates in the period during which such changes are enacted. A provision for income tax represents the total of income taxes paid or payable for the current period, plus the change in deferred taxes. Current and deferred taxes are recorded on the portion of earnings (losses) recognized by the Company with respect to its interest in TRSs. Deferred income tax assets and liabilities are calculated based on temporary differences between the Company's U.S. GAAP consolidated financial statements and the U.S. federal, state and local tax basis of assets and liabilities as of the consolidated balance sheet date. The Company evaluates the realizability of its deferred tax assets (e.g., net operating loss and capital loss carryforwards) and recognizes a valuation allowance if, based on the available evidence, it is more likely than not that some portion or all of its deferred tax assets will not be realized. When evaluating the realizability of its deferred tax assets, the Company considers estimates of expected future taxable income, existing and projected book/tax differences, tax planning strategies available and the general and industry-specific economic outlook. This realizability analysis is inherently subjective, as it requires the Company to forecast its business and general economic environment in future periods. Changes in estimate of deferred tax asset realizability, if any, are included in income tax benefit (expense) in the consolidated statements of operations.

For the years ended December 31, 2021, 2020 and 2019, the Company recorded an income expense of $6.3 million, an income tax benefit of $10.9 million and an income tax expense of $3.2 million, respectively.

Current Expected Credit Losses ("CECL") reserve

The CECL reserve for the Company's financial instruments carried at amortized cost and off-balance sheet credit exposures, such as loans, loan commitments and trade receivables represents a lifetime estimate of expected credit losses. Factors considered by the Company when determining the CECL reserve include loan-specific characteristics such as loan-to-value ("LTV") ratio, vintage year, loan term, property type, occupancy and geographic location, financial performance of the borrower, expected payments of principal and interest, as well as internal or external information relating to past events, current conditions and reasonable and supportable forecasts.

The CECL reserve is measured on a collective (pool) basis when similar risk characteristics exist for multiple financial instruments. If similar risk characteristics do not exist, the Company measures the CECL reserve on an individual instrument basis. The determination of whether a particular financial instrument should be included in a pool can change over time. If a financial asset's risk characteristics change, the Company evaluates whether it is appropriate to continue to keep the financial instrument in its existing pool or evaluate it individually.

In measuring the CECL reserve for financial instruments that share similar risk characteristics, the Company primarily applies a probability of default ("PD")/loss given default ("LGD") model for instruments that are collectively assessed, whereby the CECL reserve is calculated as the product of PD, LGD and exposure at default ("EAD"). The Company's model principally utilizes historical loss rates derived from a commercial mortgage backed securities database with historical losses from 1998 through December 2021 provided by a third party, Trepp LLC, forecasting the loss parameters using a scenario-based statistical approach over a reasonable and supportable forecast period of twelve months, followed by a straight-line reversion period of twelve-months back to average historical losses.

For financial instruments assessed outside of the PD/LGD model on an individual basis, including when it is probable that the Company will be unable to collect the full payment of principal and interest on the instrument, the Company applies a discounted cash flow ("DCF") methodology. For financial instruments where the borrower is experiencing financial difficulty based on the Company's assessment at the reporting date and the repayment is expected to be provided substantially through the operation or sale of the collateral, the Company may elect to use as a practical expedient the fair value of the collateral at the reporting date when determining the provision for loan losses.

In developing the CECL reserve for its loans and preferred equity held for investment, the Company considers the risk ranking of each loan and preferred equity as a key credit quality indicator. The risk rankings are based on a variety of factors, including, without limitation, underlying real estate performance and asset value, values of comparable properties, durability and quality of property cash flows, sponsor experience and financial wherewithal, and the existence of a risk-mitigating loan structure. Additional key considerations include loan-to-value ratios, debt service coverage ratios, loan structure, real estate and credit market dynamics, and risk of default or principal loss. Based on a five-point scale, the Company's loans and preferred equity held for investment are rated "1" through "5," from less risk to greater risk, and the ratings are updated quarterly. At the time of origination or purchase, loans and preferred equity held for investment are ranked as a "3" and will move accordingly going forward based on the ratings which are defined as follows:

1. *Very Low Risk*-The loan is performing as agreed. The underlying property performance has exceeded underwritten expectations with very strong net operating income ("NOI"), debt service coverage ratio, debt yield and occupancy metrics. Sponsor is investment grade, very well capitalized, and employs very experienced management team.

2. *Low Risk*-The loan is performing as agreed. The underlying property performance has met or exceeds underwritten expectations with high occupancy at market rents, resulting in consistent cash flow to service the debt. Strong sponsor that is well capitalized with experienced management team.

3. *Average Risk*-The loan is performing as agreed. The underlying property performance is consistent with underwriting expectations. The property generates adequate cash flow to service the debt, and/or there is enough reserve or loan structure to provide time for sponsor to execute the business plan. Sponsor has routinely met its obligations and has experience owning/operating similar real estate.

4. *High Risk/Delinquent/Potential for Loss*-The loan is in excess of 30 days delinquent and/or has a risk of a principal loss. The underlying property performance is behind underwritten expectations. Loan covenants may require occasional waivers/modifications. Sponsor has been unable to execute its business plan and local market fundamentals have deteriorated. Operating cash flow is not sufficient to service the debt and debt service payments may be coming from sponsor equity/loan reserves.

5. *Impaired/Defaulted/Loss Likely*-The loan is in default or a default is imminent, and has a high risk of a principal loss, or has incurred a principal loss. The underlying property performance is significantly worse than underwritten expectation and sponsor has failed to execute its business plan. The property has significant vacancy and current cash flow does not support debt service. Local market fundamentals have significantly deteriorated resulting in depressed comparable property valuations versus underwriting.

The Company also considers qualitative and environmental factors, including, but not limited to, economic and business conditions, nature and volume of the loan portfolio, lending terms, volume and severity of past due loans, concentration of credit and changes in the level of such concentrations in its determination of the CECL reserve.

The Company has elected to not measure a CECL reserve for accrued interest receivable as it is reversed against interest income when a loan or preferred equity investment is placed on nonaccrual status. Loans and preferred equity investments are charged off against the provision for loan losses when all or a portion of the principal amount is determined to be uncollectible.

Changes in the CECL reserve for the Company's financial instruments are recorded in provision for loan losses on the Statement of Operations with a corresponding offset to the loans and preferred equity held for investment or as a component of other liabilities for future loan fundings recorded on the Company's consolidated balance sheets. See Note 3, "Loans and Preferred Equity Held for Investment, net" for further detail.

*Troubled Debt Restructuring ("TDR")*—The Company classifies an individual financial instrument as a TDR when it has a reasonable expectation that the financial instrument's contractual terms will be modified in a manner that grants concession to the borrower who is experiencing financial difficulty. Concessions could include term extensions, payment deferrals, interest rate reductions, principal forgiveness, forbearance, or other actions designed to maximize the Company's collection on the financial instrument. The Company determines the CECL reserve for financial instruments that are TDRs individually.

Accounting Standards Adopted in 2020

*Credit Losses* - In June 2016, the FASB issued ASU No. 2016-13, Financial Instruments-Credit Losses, which amends the credit impairment model for financial instruments. The Company adopted ASU 2016-13 using the modified retrospective method on January 1, 2020.

The prior incurred loss model has been replaced with a lifetime current expected credit loss (“CECL”) model for financial instruments carried at amortized cost and off-balance sheet credit exposures, such as loans, loan commitments, held-to-maturity (“HTM”) debt securities, financial guarantees, net investment in leases, reinsurance and trade receivables, which will generally result in earlier recognition of allowance for losses. For available-for-sale (“AFS”) debt securities, unrealized credit losses are recognized as allowances rather than reductions in amortized cost basis and elimination of the OTTI concept will result in more frequent estimation of credit losses. The accounting model for purchased credit impaired loans and debt securities has been simplified, including elimination of some of the asymmetrical treatment between credit losses and credit recoveries, to be consistent with the CECL model for originated and purchased non-credit impaired assets. The existing model for beneficial interests that are not of high credit quality was amended to conform to the new impairment models for HTM and AFS debt securities.

Upon adoption of ASU 2016-13 on January 1, 2020 the Company recorded the following (dollars in thousands):

| | Impact of ASU 2016-13 Adoption |
|---|---|
| **Assets:** | |
| CECL reserve on Loans and preferred equity held for investment, net | $ 21,093 |
| **Liabilities:** | |
| CECL reserve on Accrued and other liabilities | 2,093 |
| **Total Impact of ASU 2016-13 adoption on Accumulated deficit** | $ 23,186 |

*Troubled Debt Restructuring (“TDR”)*—The Company classifies an individual financial instrument as a TDR when it has a reasonable expectation that the financial instrument’s contractual terms will be modified in a manner that grants concession to the borrower who is experiencing financial difficulty. Concessions could include term extensions, payment deferrals, interest rate reductions, principal forgiveness, forbearance, or other actions designed to maximize the Company’s collection on the financial instrument. The Company determines the CECL reserve for financial instruments that are TDRs individually.

*Fair Value Disclosures*—In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework-Changes to the Disclosure Requirements for Fair Value Measurements*. The ASU requires new disclosures of changes in unrealized gains and losses in other comprehensive income for recurring Level 3 fair value measurements of instruments held at the balance sheet date, as well as the range and weighted average or other quantitative information, if more relevant, of significant unobservable inputs for recurring and nonrecurring Level 3 fair values. Certain previously required disclosures are eliminated, specifically around the valuation process required for Level 3 fair values, policy for timing of transfers between levels of the fair value hierarchy, as well as amounts and reason for transfers between Levels 1 and 2. Additionally, the new guidance clarifies or modifies certain existing disclosures, including clarifying that information about measurement uncertainty of Level 3 fair values should be as of the reporting date and requiring disclosures of the timing of liquidity events for investments measured under the NAV practical expedient, but only if the investee has communicated this information or has announced it publicly. The provisions on new disclosures and modification to disclosure of Level 3 measurement uncertainty are to be applied prospectively, while all other provisions are to be applied retrospectively. The Company adopted ASU No. 2018-13 on January 1, 2020.

*Related Party Guidance for VIEs*—In November 2018, the FASB issued ASU No. 2018-17, *Targeted Improvements to Related Party Guidance for Variable Interest Entities*. The ASU amends the VIE guidance to align, throughout the VIE model, the evaluation of a decision maker's or service provider's fee held by a related party whether or not they are under common control, in both the assessment of whether a fee qualifies as a variable interest and the determination of a primary beneficiary. Specifically, a decision maker or service provider considers interests in a VIE held by a related party under common control only if it has a direct interest in the related party under common control and considers such indirect interest in the VIE held by the related party under common control on a proportionate basis, rather than its entirety. Transition is generally on a modified retrospective basis, with the cumulative effect adjusted to retained earnings at the beginning of the earliest period presented. The Company adopted ASU No. 2018-17 on January 1, 2020, with no transitional impact upon adoption.

*Reference Rate Reform*-In March 2020, the FASB issued ASU No. 2020-04, Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting. The guidance in Topic 848 is optional, the election of which provides temporary relief for the accounting effects on contracts, hedging relationships and other transactions impacted by the transition from interbank offered rates (such as London Interbank Offered Rate, or LIBOR) that are expected to be discontinued by the end of 2021 to alternative reference rates (such as Secured Overnight Financing Rate, or SOFR). Modification of contractual terms to effect the reference rate reform transition on debt, leases, derivatives and other contracts is eligible for relief from modification accounting and accounted for as a continuation of the existing contract. Topic 848 is effective upon issuance through December 31, 2022, and may be applied retrospectively to January 1, 2020. The Company has elected to apply the hedge accounting expedients related to probability and assessment of effectiveness for future LIBOR-indexed cash flows to assume that the index upon which future hedged transactions will be based matches the index on the corresponding derivatives, which preserves existing derivative treatment and presentation. The Company may elect other practical expedients or exceptions as applicable over time as reference rate reform activities occur.

*Revised Significance Tests*-In May 2020, the SEC issued a new rule regarding the financial statement requirements for acquisitions and dispositions of a business, which included, among other things, amending (i) certain criteria in the significance tests for acquired or to-be-acquired businesses, (ii) related pro forma financial information requirements, including its form and content, and (iii) related disclosure requirements, including the number of acquiree financial statement periods to be presented in SEC filings. The final rule is effective for fiscal years beginning after December 31, 2020, with early application permitted. The Company adopted this SEC final rule, effective October 1, 2020.

<u>Accounting Standards Adopted in 2021</u>

*Income Tax Accounting*—In December 2019, the FASB issued ASU No. 2019-12, *Simplifying Accounting for Income Taxes*. The ASU simplifies accounting for income taxes by eliminating certain exceptions to the general approach in ASC 740, Income Taxes, and clarifies certain aspects of the guidance for more consistent application. The simplifications relate to intraperiod tax allocations when there is a loss in continuing operations and a gain outside of continuing operations, accounting for tax law or tax rate changes and year-to-date losses in interim periods, recognition of deferred tax liability for outside basis difference when investment ownership changes, and accounting for franchise taxes that are partially based on income. The ASU also provides new guidance that clarifies the accounting for transactions resulting in a step-up in tax basis of goodwill, among other changes. Transition is generally prospective, other than the provision related to outside basis difference which is on a modified retrospective basis with the cumulative effect adjusted to retained earnings at the beginning of the period adopted, and franchise tax provision which is on either full or modified retrospective. ASU No. 2019-12 is effective January 1, 2021, with early adoption permitted in an interim period, to be applied to all provisions. The Company adopted this on January 1, 2021, and the impact was not material.

*Accounting for Certain Equity Investments*—In January 2020, the FASB issued ASU No. 2020-01, *Clarifying the Interactions between Topic 321 Investments-Equity Securities, Topic 323-Investments Equity Method and Joint Ventures, and Topic 815-Derivatives and Hedging*. The ASU clarifies, that if as a result of an observable transaction, an equity investment under the measurement alternative is transitioned into equity method or an equity method investment is transitioned into measurement alternative, then the investment is to be remeasured immediately before and after the transaction, respectively. The ASU also clarifies that certain forward contracts or purchased options to acquire equity securities that are not deemed to be derivatives or in-substance common stock will generally be measured using the fair value principles of ASC 321 before settlement or exercise, and that an entity should not be considering how it will account for the resulting investments upon eventual settlement or exercise. ASU No. 2020-01 is to be applied prospectively, effective January 1, 2021, with early adoption permitted in an interim period. The Company adopted this on January 1, 2021, and the impact was not material.

## 3. Loans and Preferred Equity Held for Investment, net

The following table provides a summary of the Company's loans and preferred equity held for investment, net (dollars in thousands):

| | December 31, 2021 | | | | December 31, 2020 | | | |
|---|---|---|---|---|---|---|---|---|
| | Unpaid Principal Balance | Carrying Value | Weighted Average Coupon[(1)] | Weighted Average Maturity in Years | Unpaid Principal Balance | Carrying Value | Weighted Average Coupon[(1)] | Weighted Average Maturity in Years |
| **Fixed rate** | | | | | | | | |
| Mezzanine loans | $ 105,636 | $ 105,505 | 12.4 % | 3.0 | $ 155,803 | $ 155,225 | 12.8 % | 4.0 |
| Preferred equity interests | — | — | — % | — | 18,680 | 18,681 | 15.0 % | 2.7 |
| | 105,636 | 105,505 | | | 174,483 | 173,906 | | |
| **Variable rate** | | | | | | | | |
| Senior loans | 1,576,439 | 1,564,940 | 4.6 % | 3.7 | 1,029,760 | 1,026,846 | 5.4 % | 3.4 |
| Securitized loans[(2)] | 1,806,583 | 1,803,042 | 4.2 % | 3.5 | 1,006,495 | 1,004,698 | 5.1 % | 3.4 |
| Mezzanine loans | 12,000 | 12,120 | 11.5 % | 0.7 | 12,000 | 12,120 | 11.5 % | 1.7 |
| Preferred equity interests | — | — | — % | — | 3,118 | 3,118 | 5.3 % | — |
| | 3,395,022 | 3,380,102 | | | 2,051,373 | 2,046,782 | | |
| Loans and preferred equity held for investment | 3,500,658 | 3,485,607 | | | 2,225,856 | 2,220,688 | | |
| Allowance for loan losses | NA | (36,598) | | | NA | (37,191) | | |
| **Loans and preferred equity held for investment, net** | $ 3,500,658 | $ 3,449,009 | | | $ 2,225,856 | $ 2,183,497 | | |

(1) Calculated based on contractual interest rate.
(2) Represents loans transferred into securitization trusts that are consolidated by the Company.

The weighted average maturity, including extensions, of loans and preferred equity investments was 3.6 years at December 31, 2021. At December 31, 2020, the weighted average maturity, including extensions, of loans and preferred equity investments was 3.5 years.

The Company had $9.5 million and $7.0 million of interest receivable related to its loans and preferred equity held for investment, net as of December 31, 2021 and December 31, 2020, respectively. This is included in receivables, net on the Company's consolidated balance sheets.

Activity relating to the Company's loans and preferred equity held for investment, net was as follows (dollars in thousands):

| | Year Ended December 31, | |
|---|---|---|
| | 2021[(1)] | 2020[(2)] |
| **lance at January 1** | $ 2,183,497 | 2,576,332 |
| quisitions/originations/additional funding | 1,758,090 | 296,981 |
| an maturities/principal repayments | (501,007) | (476,335) |
| nsfer to loans held for sale | — | (154,370) |
| scount accretion/premium amortization | 6,706 | 7,766 |
| pitalized interest | 1,130 | (1,446) |
| ovision for loan losses | 593 | (85,744) |
| ect of CECL adoption[(3)] | — | (20,847) |
| arge-off | — | 41,160 |
| **lance at December 31** | $ 3,449,009 | 2,183,497 |

(1) Provision for loan losses excludes $0.4 million as of December 31, 2021, determined by the Company's PD/LGD model for unfunded commitments reported on the consolidated statement of operations, with a corresponding offset to other liabilities recorded on the Company's consolidated balance sheets.
(2) Provision for loan losses includes $5.2 million for a loan that was subsequently transferred to held for sale during the second quarter of 2020 and the net provision recorded upon loan repayment totaling $2.7 million during the year ended December 31, 2020. Additionally, provision for loan losses excludes

$1.3 million determined by the Company's PD/LGD model for unfunded commitments reported on the consolidated statement of operations, with a corresponding offset to other liabilities recorded on the Company's consolidated balance sheets.

(3) Calculated by the Company's PD/LGD model upon CECL adoption on January 1, 2020. See Note 2, "Summary of Significant Accounting Polices" for further details.

*Nonaccrual and Past Due Loans and Preferred Equity*

Loans and preferred equity that are 90 days or more past due as to principal or interest, or where reasonable doubt exists as to timely collection, are generally considered nonperforming and placed on nonaccrual status. As of December 31, 2021 and December 31, 2020, the Company did not have any loans and preferred equity on nonaccrual status.

The following table provides an aging summary of loans and preferred equity held for investment at carrying values before allowance for loan losses, if any (dollars in thousands):

| | Current or Less Than 30 Days Past Due | 30-59 Days Past Due | 60-89 Days Past Due | 90 Days or More Past Due | Total Loans |
|---|---|---|---|---|---|
| December 31, 2021 | $ 3,485,607 | $ — | $ — | $ — | $ 3,485,607 |
| December 31, 2020 | 2,220,688 | — | — | — | 2,220,688 |

*San Jose, California Hotel Senior Loan*

The onset of the COVID-19 pandemic in the spring of 2020 created challenges, which included lower occupancy rates, weaker financial performance and borrower funding of approximately $18.6 million of shortfalls to maintain operations, which ultimately led the borrower to close the San Jose, California hotel and file for Chapter 11 bankruptcy in March 2021. The Company entered into a restructuring support agreement with the borrower with respect to the bankruptcy process, in the Company's capacity as the sole secured creditor. The bankruptcy court authorized the rejection of the existing hotel management agreement and approved a restructuring plan for the borrower to exit bankruptcy with Signia by Hilton as the new brand and hotel manager at the hotel and a $25 million mezzanine loan to support re-opening the hotel, property improvement plans, certain operating expenses and all expenses associated with the bankruptcy process.

On May 18, 2021, the bankruptcy court issued a confirmation order approving the amended and restated senior mortgage loan terms and the Company's right to rely on such order to finalize documents with the Company's borrower as it emerges from bankruptcy in accordance with the third amended joint Chapter 11 plan of reorganization. In the fourth quarter of 2021, the Company amended and restated the senior mortgage loan, subject to customary closing conditions, in the amount of $184.9 million, an upsize which reflects accrued interest and fees during the non-accrual period, collapsing the prior preferred equity investment into the restated senior mortgage loan and certain other costs and expenses associated with bankruptcy. The San Jose Hotel is scheduled to reopen in the first quarter of 2022. As the bankruptcy plan and loan terms were approved in the second quarter of 2021 and the Company's senior loan documents were substantively finalized during the third quarter of 2021, for the three months ended September 30, 2021 the Company reinstated the loan investment and recognized $6.1 million of interest income on the consolidated statement of operations, of which $3.7 million relates to past due interest during the non-accrual period of February 2021 through June 2021 and $2.4 million relates to interest income during the third quarter of 2021. Additionally, the Company recognized $0.7 million of other income on the consolidated statement of operations related to late fees during the three months ended September 30, 2021. During the fourth quarter of 2021, the San Jose, California hotel senior loan is performing in accordance with the contractual terms.

*Senior Loan Collateralized by Student Housing Property*

Subsequent to December 31, 2021, the Company received a $36.5 million repayment on one senior loan collateralized by a student housing property, which was $1.3 million less than the unpaid principal balance. As such, during the fourth quarter of 2021, the Company had recorded a $1.3 million provision for loan loss on the loan.

*Allowance for Loan Losses*

Changes in allowance for loan losses on loans are presented below (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| Allowance for loan losses at beginning of period | $ 37,191 | $ 272,624 | $ 109,328 |
| Effect of CECL adoption[1] | — | 21,093 | — |
| Provision for loan losses[2][3] | (593) | 85,497 | 220,572 |
| Charge-off | — | (41,160) | (46,693) |
| Transfer to loans held for sale | — | (300,863) | (10,583) |
| Allowance for loan losses at end of period[4][5] | $ 36,598 | $ 37,191 | $ 272,624 |

(1) Calculated by the Company's PD/LGD model upon CECL adoption on January 1, 2020. See Note 2, "Summary of Significant Accounting Policies" for further details.
(2) For the year ended December 31, 2021, provision for loan losses excludes $0.4 million, which were determined by the Company's PD/LGD model for unfunded commitments reported on the consolidated statement of operations, with a corresponding offset to other liabilities recorded on the Company's consolidated balance sheets.
(3) For the year ended December 31, 2020, provision for loan losses excludes $1.3 million, which were determined by the Company's PD/LGD model for unfunded commitments reported on the consolidated statement of operations, with a corresponding offset to other liabilities recorded on the Company's consolidated balance sheets. Provision for loan losses includes $5.2 million for a loan that was subsequently transferred to held for sale during the second quarter of 2020 and net provision recorded upon loan repayment totaling $2.7 million during the year ended December 31, 2020.
(4) Includes $35.3 million related to the Company's PD/LGD model at December 31, 2021 and $1.3 million related to a loan, which was evaluated individually.
(5) At December 31, 2020, includes $37.2 million related to the Company's PD/LGD model.

*Credit Quality Monitoring*

Loan and preferred equity investments are typically loans secured by direct senior priority liens on real estate properties or by interests in entities that directly own real estate properties, which serve as the primary source of cash for the payment of principal and interest. The Company evaluates its loan and preferred equity investments at least quarterly and differentiates the relative credit quality principally based on: (i) whether the borrower is currently paying contractual debt service in accordance with its contractual terms; and (ii) whether the Company believes the borrower will be able to perform under its contractual terms in the future, as well as the Company's expectations as to the ultimate recovery of principal at maturity.

As of December 31, 2021, all loans were performing in accordance with the contractual terms of their governing documents and were categorized as performing loans. There were no loans held for investment with contractual payments past due as of December 31, 2020. For the years ended December 31, 2021 and December 31, 2020, no debt investment contributed more than 10.0% of interest income.

The following tables provide a summary by carrying values before any allowance for loan losses of the Company's loans and preferred equity held for investment by year of origination and credit quality risk ranking (dollars in thousands) as of December 31, 2021 and December 31, 2020, respectively. Refer to Note 2, "Summary of Significant Accounting Policies—Accounting Standards Adopted in 2020—Credit Losses" for loans risk ranking definitions.

| | December 31, 2021 | | | | | |
|---|---|---|---|---|---|---|
| | 2021 | 2020 | 2019 | 2018 | 2017 | Total |
| **Senior loans** | | | | | | |
| Risk Rankings: | | | | | | |
| 2 | $ 242,850 | $ 109,103 | $ 70,811 | $ — | $ — | $ 422,764 |
| 3 | 1,393,307 | 72,359 | 443,162 | 262,147 | 34,036 | 2,205,011 |
| 4 | — | — | 396,395 | 304,477 | — | 700,872 |
| 5 | — | — | 39,335 | — | — | 39,335 |
| **Total Senior loans** | 1,636,157 | 181,462 | 949,703 | 566,624 | 34,036 | 3,367,982 |
| **Mezzanine loans** | | | | | | |
| Risk Rankings: | | | | | | |
| 3 | — | — | 38,796 | 4,489 | — | 43,285 |
| 4 | — | — | 62,220 | — | 12,120 | 74,340 |
| **Total Mezzanine loans** | — | — | 101,016 | 4,489 | 12,120 | 117,625 |
| **Total Loans and preferred equity held for investment** | $ 1,636,157 | $ 181,462 | $ 1,050,719 | $ 571,113 | $ 46,156 | $ 3,485,607 |

| | December 31, 2020 | | | | | | |
|---|---|---|---|---|---|---|---|
| | 2020 | 2019 | 2018 | 2017 | 2016 | Prior | Total |
| **Senior loans** | | | | | | | |
| Risk Rankings: | | | | | | | |
| 3 | $ 176,851 | $ 344,871 | $ 260,391 | $ 33,645 | $ — | $ — | $ 815,758 |
| 4 | — | 812,255 | 403,531 | — | — | — | 1,215,786 |
| **Total Senior loans** | 176,851 | 1,157,126 | 663,922 | 33,645 | — | — | 2,031,544 |
| **Mezzanine loans** | | | | | | | |
| Risk Rankings: | | | | | | | |
| 4 | — | 92,261 | 62,964 | 12,120 | — | — | 167,345 |
| **Total Mezzanine loans** | — | 92,261 | 62,964 | 12,120 | — | — | 167,345 |
| **Preferred equity interests and other** | | | | | | | |
| Risk Rankings: | | | | | | | |
| 4 | 3,118 | — | 18,681 | — | — | — | 21,799 |
| **Total Preferred equity interests and other** | 3,118 | — | 18,681 | — | — | — | 21,799 |
| **Total Loans and preferred equity held for investment** | $ 179,969 | $ 1,249,387 | $ 745,567 | $ 45,765 | $ — | $ — | $ 2,220,688 |

The year ended December 31, 2021 average risk rating for loans and preferred equity held for investment was 3.1. The year ended December 31, 2020 average risk rating for loans and preferred equity held for investment was 3.7.

*Lending Commitments*

The Company has lending commitments to borrowers pursuant to certain loan agreements in which the borrower may submit a request for funding contingent on achieving certain criteria, which must be approved by the Company as lender, such as leasing, performance of capital expenditures and construction in progress with an approved budget. At December 31, 2021, assuming the terms to qualify for future advances, if any, had been met, total gross unfunded lending commitments were $264.9 million. Refer to Note 17, "Commitments and Contingencies" for further details. At December 31, 2021, the Company recorded a $0.4 million allowance for lending commitments in accrued and other liabilities on its consolidated balance sheets in accordance with the credit losses accounting standard No. 2016-13. See Note 2, "Summary of Significant Accounting Policies" for further details. At December 31, 2020, assuming the terms to qualify for future advances, if any, had been met, total gross unfunded lending commitments were $163.0 million. At December 31, 2020, the Company recorded a $1.3 million allowance for lending commitments in accrued and other liabilities on its consolidated balance sheets in accordance with the credit losses accounting standard No. 2016-13. See Note 2, "Summary of Significant Accounting Policies" for further details.

## 4. Investments in Unconsolidated Ventures

Summary

The Company's investments in unconsolidated ventures represent noncontrolling equity interests in various entities, as follows (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| Equity method investments | $ 16,185 | $ 366,481 |
| Investments under fair value option | 4,406 | 6,883 |
| **Investments in Unconsolidated Ventures** | $ 20,591 | $ 373,364 |

Equity Method Investments

*Investment Ventures*

Certain of the Company's equity method investments are structured as joint ventures with one or more private funds or other investment vehicles managed by DigitalBridge with third party joint venture partners. These investment entities are generally capitalized through equity contributions from the members, although certain investments are leveraged through various financing arrangements.

The assets of the equity method investment entities may only be used to settle the liabilities of these entities and there is no recourse to the general credit of the Company nor the other investors for the obligations of these investment entities. Neither the Company nor the other investors are required to provide financial or other support in excess of their capital commitments. The Company's exposure to the investment entities is limited to its equity method investment balance as of December 31, 2021 and December 31, 2020, respectively.

The Company's investments accounted for under the equity method are summarized below (dollars in thousands):

| | | Carrying Value | |
|---|---|---|---|
| Investments | Description | December 31, 2021 | December 31, 2020 |
| ADC investments[(1)(2)(3)] | Interests in three acquisition, development and construction loans in which the Company participates in residual profits from the projects, and the risk and rewards of the arrangements are more similar to those associated with investments in joint ventures | $ — | $ 57,481 |
| Other investment ventures[(1)(4)] | Interest in one investment backed by a triple-net-leased industrial portfolio | 16,185 | 309,000 |

(1) The Company's ownership interest in ADC investments and other investment ventures varies and represents capital contributed to date and may not be reflective of the Company's economic interest in the entity because of provisions in operating agreements governing various matters, such as classes of partner or member interests, allocations of profits and losses, preferential returns and guaranty of debt. Each equity method investment has been determined to be a VIE for which the Company was not deemed to be the primary beneficiary or a voting interest entity in which the Company does not have the power to control through a majority of voting interest or through other arrangements.
(2) The Company owns varying levels of stated equity interests in certain ADC investments, as well as profit participation interests in real estate ventures without a stated ownership interest in other ADC investments.
(3) At December 31, 2020, included two investments with a carrying value of $57.5 million that were contributed to a preferred financing arrangement. Both investments were sold in the fourth quarter of 2021 as part of the Co-Invest Portfolio Sale. See Note 13, "Noncontrolling Interests," for further information.
(4) At December 31, 2020, included four investments with a carrying value of $194.9 million that were contributed to a preferred financing arrangement. These investments were sold in the fourth quarter of 2021 as part of the Co-Invest Portfolio Sale. See Note 13, "Noncontrolling Interests," for further information.

Under the fair value option, loans and preferred equity investments are measured each reporting period based on their exit values in an orderly transaction. Fair value adjustments recorded on each of these investments is included in equity in earnings of unconsolidated ventures on the Company's consolidated statements of operations.

*Los Angeles, California Mixed-Use Project—Third Party $275 million Construction Mezzanine Loan Upsize and Retained B-Participation Investment*

Risk of Foreclosure and Maturity Default (see Historical Details below)

On July 9, 2021, the borrower failed to pay the principal balance of the Upsized Mezzanine Loan (as defined below) and senior mortgage loan or meet other tests for extension of the maturity date. The Senior Mezzanine Lender (as defined below) and senior mortgage lender each delivered reservation of rights letters to the senior mezzanine borrower and borrower, respectively. The lender parties and borrower have engaged in discussions regarding the current status of the sale of the hotel and the completion of the tower condominiums and anticipated tower condominium sales projections. Since the new capital investment of $275 million was made on September 1, 2020, there have been additional hard and soft costs overruns which are not supported by current commitments or reserves at the Mixed-use Project; provided, however, since the borrower maturity default, the Senior Mezzanine Lender has funded an additional approximate $47 million in protective advances ahead of the Company's junior B-participation position. The hotel is currently open for business and the condominium towers are nearing completion. However, there continue to be delays experienced at the project, which include delays of the sale of the hotel property. In October 2021, in addition to the recent protective advances, the entire senior mortgage loan (with a total funding commitment of approximately $1.0 billion) was acquired at par by an affiliate of the Senior Mezzanine Lender (collectively, the "Senior Lender Group"). Since this acquisition, the senior mortgage commenced bearing interest at the default rate of approximately 11%. Given the Senior Lender Group's consolidation of indebtedness, needed additional fundings and their preparedness to exercise any and all remedies, the CLNY Mezzanine Lender's (as defined below) inability to reach a feasible restructuring agreement could result in the Senior Lender Group foreclosing on the Company's mezzanine B-participation investment.

The borrower's maturity default on July 9, 2021, further delays at the project and in sales activities, additional capital requirements, potential restructuring of indebtedness and actions that may be taken by the Senior Lender Group, notwithstanding continuing negotiations with the Senior Lender Group, have negatively impacted the Company's investment interest. Importantly, the acquisition of the senior mortgage by the Senior Mezzanine Lender increases the likelihood of a mortgage foreclosure of the Company's interests. As a result during the three months ended September 30, 2021, the Mixed-use Project recorded fair value losses totaling $268.5 million. The Company recognized its proportionate share of fair value losses equaling $97.9 million, which represents the Company's remaining proportionate share in the investment. As of December 31, 2021, there has been no change to the investment's fair value. During the year ended December 31, 2020, the Company recorded its proportionate share of fair value losses of $89.3 million. During the year ended December 31, 2019, the Mixed-use Project and the Company did not recognize any fair value losses. The Mixed-use Project did not recognize any interest income for the year ended December 31, 2021. For the years ended December 31, 2020 and December 31, 2019, the Mixed-use Project's total interest income was $13.8 million and $45.1 million, respectively, and the Company recognized its proportionate share of $2.4 million and $17.7 million, respectively.

Historical Details

The Company’s mezzanine loan and preferred equity investment in a development project in Los Angeles County, which includes a hospitality and retail renovation and a new condominium tower construction (the “Mixed-use Project”), was converted into a mezzanine participation during the three months ended September 30, 2020. The Company’s investment was made through a joint venture with affiliates of the Company’s Manager (the “CLNY Mezzanine Lender”) in the form of a $574.0 million commitment to the Mixed-use Project, of which the Company’s proportionate share of the commitment is $189.0 million.

In April 2020, the senior mortgage lender notified the borrower developer that the Mixed-use Project loan funding was over budget, due to cost overruns from certain hard and soft costs and senior loan interest reserve shortfalls projected through completion. As a result, during the second quarter of 2020, the Company and its affiliates made two protective advances to the senior mortgage lender totaling $69.1 million, of which the Company’s proportionate share was $28.5 million. During the three months ended June 30, 2020, the Company placed the mezzanine loan and preferred equity investment on nonaccrual status.

In June 2020, the senior mortgage lender sought a third protective advance of $15.5 million of which the Company’s proportionate share would have been $7.0 million. While the Company and its affiliates did not fund its proportionate share, the senior mortgage lender funded the full amount of the required June advances. The senior mortgage lenders funding did not relieve the Company and its affiliates from its commitment to fund. As a result during the three months ended June 30, 2020, the Mixed-use Project’s recorded fair value losses totaling $250.0 million. The Company recognized its proportionate share of fair value losses equaling $89.3 million. The Mixed-use Project’s fair value was based on a weighted average probability analysis of potential resolutions based on a number of factors which included the maturity default of the loan, cost overruns, COVID-19 related delays, lack of funding by the borrower and recent negotiations with the senior lender, the borrower and potential sources of additional mezzanine financing.

In September 2020, in cooperation with the borrower and the EB-5 lender, the CLNY Mezzanine Lender and senior mortgage lender secured $275 million of additional mezzanine financing from a third-party mezzanine lender (the “Senior Mezzanine Lender”). To consummate the new mezzanine financing, the CLNY Mezzanine Lender simplified its investment interest by converting its existing preferred equity principal and accrued interest into the existing mezzanine loan, transferred the mezzanine loan to the Senior Mezzanine Lender, who subsequently increased the mezzanine loan amount by $275 million to a $821 million total mezzanine loan (the “Upsized Mezzanine Loan”). The Senior Mezzanine Lender holds a $275 million A-participation and the CLNY Mezzanine Lender (including the Company’s interest) continues to hold a $546 million B-participation interest in the Upsized Mezzanine Loan at the Mixed-use Project.

*The Co-Invest Portfolio Sale*

On December 20, 2021, the Company closed the sale of five historical development and/or non-accrual assets to managed vehicles of Fortress Investment Group LLC (“Fortress”), for gross proceeds of $223 million (the “Co-Invest Portfolio Sale”). The Company received net transaction proceeds of $198.3 million, primarily due to offsetting distributions from the underlying investments that were received by the Company between signing and closing.

The Co-Invest Portfolio Sale included four co-investments: two Dublin, Ireland development loans and two U.S. mixed-use and single-family development loans, as well as a residual hotel loan equity participation interest in Austin, Texas. The Co-Invest Portfolio Sale resolved five of six legacy co-invest assets owned alongside DigitalBridge Group, Inc.

For the year ended December 31, 2021, the Company recorded total realized gains of $20.2 million in connection with the Co-Invest Portfolio Sale. This included a $29.9 million gain related to designated foreign currency hedges which were settled in 2020 and released from accumulated other comprehensive income in 2021 upon the closing of the Co-Invest Portfolio Sale, a $6.4 million gain received on certain non-designated hedges that were put in place to mitigate the risk of currency translation on foreign currency denominated assets sold and tax expense of $6.0 million. All gains mentioned above were recorded within other gain (loss), net on the consolidated statement of operations.

The Co-Invest Portfolio Sale included four of the investments included in the “5-Investment Preferred Financing,” a COVID-19 related financing secured in June 2020 for balance sheet protective purposes. The Company used all the sales proceeds from the Co-Invest Portfolio Sale to substantially fund the repayment of the “5-Investment Preferred Financing” during the fourth quarter of 2021. Refer to Note 13, “Noncontrolling Interests” for more details on this transaction.

Investments under Fair Value Option

*Private Funds*

The Company elected to account for its limited partnership interests in PE Investments under the fair value option, which interests range from 1.0% to 15.6% and 1.0% to 17.4%, respectively, for the years ended December 31, 2021 and December 31, 2020. The Company records equity in earnings for these investments based on a change in fair value of its share of projected future cash flows.

**5. Real Estate Securities, Available for Sale**

*Investments in CRE Securities*

CRE securities are composed of CMBS backed by a pool of CRE loans which are typically well-diversified by type and geography. The Company no longer held any CRE securities at December 31, 2021. The following table presents CMBS investments as of December 31, 2020 (dollars in thousands):

| | | | | | Cumulative Unrealized on Investments | | | Weighted Average | |
|---|---|---|---|---|---|---|---|---|---|
| As of Date: | Count | Principal Amount | Total Discount | Amortized Cost | Gain | (Loss) | Fair Value | Coupon[1] | Unleveraged Current Yield[2] |
| December 31, 2020 | 2 | $ 19,560 | $ (9,371) | $ 10,189 | $ 200 | $ — | $ 10,389 | 3.35 % | — % |

(1) All CMBS are fixed rate.
(2) The Company placed all of its CRE securities on cost recovery status as of April 1, 2020.

Consistent with the overall market, the Company's CRE securities, which it marks to fair value, lost significant value since the onset of the COVID-19 pandemic. During the year ended December 31, 2021, the Company wrote down through earnings the amortized cost basis for securities in which the fair value dropped below the amortized cost basis, realizing a loss of $1.0 million. During the year ended December 31, 2020, the Company realized a loss of $32.6 million. The losses were recorded in other gain (loss), net on the Company's consolidated statements of operations.

During the year ended December 31, 2021, the Company sold two CRE securities for a total gross sales price of $10.2 million and realized a gain of $1.2 million. During the year ended December 31, 2020, the Company sold 41 CRE securities for a total gross sales price of $149.6 million and recognized a net loss of $42.2 million. The gain (loss) was recorded in other gain (loss), net on the Company's consolidated statements of operations. Following the sales of CRE securities during 2021, the Company no longer holds any CRE securities at December 31, 2021.

During the years ended December 31, 2021 and December 31, 2020, the Company recorded unrealized losses in OCI of $0.2 million and $16.3 million, respectively. During the year ended December 31, 2019, the Company recorded an unrealized gain in OCI of $17.8 million.

*Investments in Investing VIEs*

The Company is the directing certificate holder of one securitization trust and has the ability to appoint and replace the special servicer on all mortgage loans. As such, U.S. GAAP requires the Company to consolidate the assets, liabilities, income and expenses of the securitization trusts as Investing VIEs. Refer to Note 2, "Summary of Significant Accounting Policies" for further discussion on Investing VIEs.

During the year ended December 31, 2021, the Company recognized unrealized gains of $41.9 million and realized losses of $36.6 million. In the second quarter of 2021, the Company sold its retained investments in the subordinate tranches of one securitization trust for $28.7 million in total proceeds. In connection with the sale, the Company recognized an unrealized gain of $19.5 million. The Company also recognized a realized loss of $19.5 million when the accumulated losses related to the retained investment were reversed and subsequently recorded to realized loss on mortgage loans and obligations held in securitization trusts, net. The Company deconsolidated the securitization trust with gross assets and liabilities of approximately $830.9 million and $802.2 million, respectively, which excludes accrued interest receivable and payable amounts of $3.0 million and $2.8 million, respectively.

During the year ended December 31, 2021, the Company recorded a realized loss of $17.1 million related to the sale of two underlying loans held within one of its retained investments in the subordinate tranches of a securitization trust. The Company also recorded an unrealized gain of $13.8 million when the accumulated losses related to the retained investment were reversed and subsequently recorded to realized loss on mortgage loans and obligations held in securitization trusts, net. The realized losses were previously included in the Company's loss projections and therefore no additional fair value write downs were required.

Other than the securities represented by the Company's subordinate tranches of the securitization trust, the Company does not have any claim to the assets or exposure to the liabilities of the securitization trust. The original issuers, who are unrelated third parties, guarantee the interest and principal payments related to the investment grade securitization bonds in the securitization trust, therefore these obligations do not have any recourse to the general credit of the Company as the consolidator of the securitization trust. The Company's maximum exposure to loss would not exceed the carrying value of its retained investments in the securitization trusts, or the subordinate tranches of the securitization trust.

As of December 31, 2021, the mortgage loans and the related mortgage obligations held in the securitization trust had an unpaid principal balance of $813.3 million and $777.2 million, respectively. As of December 31, 2020, the mortgage loans and the related mortgage obligations held in the securitization trusts had an unpaid principal balance of $1.7 billion and $1.6 billion, respectively. As of December 31, 2021, the underlying collateral of the securitization trust consisted of 62 underlying commercial mortgage loans, with a weighted average coupon of 4.9% and a weighted average loan to value ratio of 60.7%. As of December 31, 2020, across the two consolidated securitization trusts, the underlying collateral consisted of 114 underlying commercial mortgage loans, with a weighted average coupon of 4.5% and a weighted average loan to value ratio of 60.0%.

The following table presents the assets and liabilities recorded on the consolidated balance sheets attributable to the securitization trust as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Assets** | | |
| Mortgage loans held in a securitization trust, at fair value | $ 813,310 | $ 1,768,069 |
| Receivables, net | 3,325 | 6,644 |
| Total assets | $ 816,635 | $ 1,774,713 |
| **Liabilities** | | |
| Mortgage obligations issued by a securitization trust, at fair value | $ 777,156 | $ 1,708,534 |
| Accrued and other liabilities | 3,032 | 6,119 |
| Total liabilities | $ 780,188 | $ 1,714,653 |

The Company elected the fair value option to measure the assets and liabilities of the securitization trusts, which requires that changes in valuations of the securitization trusts be reflected in the Company's consolidated statements of operations.

The difference between the carrying values of the mortgage loans held in securitization trusts and the carrying value of the mortgage obligations issued by securitization trusts was $36.2 million and $59.5 million as of December 31, 2021 and December 31, 2020, respectively, and approximates the fair value of the Company's retained investments in the subordinate tranches of the securitization trusts, which are eliminated in consolidation. Refer to Note 14, "Fair Value" for a description of the valuation techniques used to measure fair value of assets and liabilities of the Investing VIEs.

The below table presents net income attributable to the Company's common stockholders for the years ended December 31, 2021, 2020 and 2019 generated from the Company's investments in the subordinate tranches of the securitization trusts (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Statement of Operations** | | | |
| Interest expense | $ — | $ (427) | $ (957) |
| Interest income on mortgage loans held in securitization trusts | 51,609 | 92,461 | 120,203 |
| Interest expense on mortgage obligations issued by securitization trusts | (45,460) | (83,952) | (109,964) |
| Net interest income | 6,149 | 8,082 | 9,282 |
| Administrative expense | (1,308) | (1,476) | (1,114) |
| Unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net | 41,904 | (50,521) | 4,090 |
| Realized gain (loss) on mortgage loans and obligations held in securitization trusts, net | (36,623) | — | 2,772 |
| Net income (loss) attributable to BrightSpire Capital, Inc. common stockholders | $ 10,122 | $ (43,915) | $ 15,030 |

## 6. Real Estate, net and Real Estate Held for Sale

The following table presents the Company's net lease portfolio, net, as of December 31, 2021, and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| Land and improvements | $ 134,453 | $ 136,184 |
| Buildings, building leaseholds, and improvements | 564,919 | 569,610 |
| Tenant improvements | 17,944 | 16,311 |
| Construction-in-progress | 660 | 3,804 |
| Subtotal | $ 717,976 | $ 725,909 |
| Less: Accumulated depreciation | (70,861) | (52,201) |
| Less: Impairment | (34,104) | (34,104) |
| Net lease portfolio, net(1) | $ 613,011 | $ 639,604 |

(1) Prior period amounts have been revised to conform to the current year presentation. See Note 18, "Segment Reporting" for further discussion.

The following table presents the Company's portfolio of other real estate, including foreclosed properties, as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| Land and improvements | $ 46,532 | $ 53,523 |
| Buildings, building leaseholds, and improvements | 236,259 | 262,874 |
| Tenant improvements | 24,625 | 24,931 |
| Furniture, fixtures and equipment | 191 | 4,245 |
| Construction-in-progress | 460 | 738 |
| Subtotal | $ 308,067 | $ 346,311 |
| Less: Accumulated depreciation | (29,460) | (29,955) |
| Less: Impairment | (108,407) | (116,703) |
| Other portfolio, net(1) | $ 170,200 | $ 199,653 |

(1) Prior period amounts have been revised to conform to the current year presentation. See Note 18, "Segment Reporting" for further discussion.

For the years ended December 31, 2021 and 2020, the Company had no single property with rental and other income equal to or greater than 10.0% of total revenue of the Company.

At December 31, 2021, the Company held one foreclosed property included in assets held for sale with a carrying value of $33.5 million. At December 31, 2020, the Company held foreclosed properties which are included in real estate, net with a carrying value of $26.2 million.

### *Depreciation Expense*

Depreciation expense on real estate was $25.8 million, $41.7 million and $72.9 million for the years ended December 31, 2021, 2020 and 2019, respectively.

### *Property Operating Income*

For the years ended December 31, 2021, 2020 and 2019, the components of property operating income were as follows (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| Lease revenues[(1)] | | | |
| Minimum lease revenue | $ 83,498 | $ 146,700 | $ 180,734 |
| Variable lease revenue | 9,815 | 22,197 | 24,419 |
| | $ 93,313 | $ 168,897 | $ 205,153 |
| Hotel operating income | 9,200 | 5,720 | 45,898 |
| | $ 102,513 | $ 174,617 | $ 251,051 |

(1) Excludes net amortization expense related to above and below-market leases of $1.3 million and income of $1.4 million for the year ended December 31, 2021, respectively. Excludes net amortization expense related to above and below-market leases of $2.4 million and income of $2.8 million for the year ended December 31, 2020, respectively. Excludes net amortization expense related to above and below-market leases of $4.2 million and $7.1 million for the year ended December 31, 2019, respectively.

### *Minimum Future Rents*

Minimum rental amounts due under leases are generally either subject to scheduled fixed increases or adjustments. The following table presents approximate future minimum rental income under noncancellable operating leases, excluding variable lease revenue of tenant reimbursements, to be received over the next five years and thereafter as of December 31, 2021 (dollars in thousands):

| | |
|---|---|
| Remainder of 2022 | $ 75,347 |
| 2023 | 69,438 |
| 2024 | 64,846 |
| 2025 | 58,509 |
| 2026 | 52,570 |
| 2027 and thereafter | 365,945 |
| Total[(1)] | $ 686,655 |

(1) Excludes minimum future rents that is classified as held for sale totaling $1.6 million through 2026.

The following table presents approximate future minimum rental income under noncancellable operating leases, excluding variable lease revenue of tenant reimbursements, to be received over the next five years and thereafter as of December 31, 2020 (dollars in thousands):

| | |
|---|---|
| 2021 | $ 77,716 |
| 2022 | 73,760 |
| 2023 | 66,137 |
| 2024 | 60,657 |
| 2025 | 55,152 |
| 2026 and thereafter | 393,964 |
| Total[(1)] | $ 727,386 |

(1) Excludes minimum future rents that is classified as held for sale totaling $103.6 million through 2050.

The rental properties owned at December 31, 2021 are leased under noncancellable operating leases with current expirations ranging from 2022 to 2038, with certain tenant renewal rights. For certain properties, the tenants pay the Company, in addition to the contractual base rent, their pro rata share of real estate taxes and operating expenses. Certain lease agreements provide for periodic rental increases and others provide for increases based on the consumer price index.

*Lease Concessions*

As a result of the COVID-19 crisis, some tenants sought and others may seek more flexible payment terms and the Company has and will engage with affected tenants on a case-by-case basis. For lease concessions resulting directly from the impact of COVID-19 that do not result in a substantial increase in the rights of the lessor or the obligations of the lessee, for example, where total payments required by the modified contract will be substantially the same as or less than the original contract, the Company made a policy election to account for the concessions as though the enforceable rights and obligations for those concessions existed in the lease contracts, under a relief provided by the FASB. Under the relief, the concessions will not be treated as lease modifications that are accounted for over the remaining term of the respective leases, as the Company believes this would not accurately reflect the temporary economic effect of the concessions. Instead, (i) rent deferrals that meet the criteria will be treated as if no changes were made to the lease contract, with continued recognition of lease income and receivables under the original terms of the contract; and (ii) rent forgiveness that meets the criteria will be accounted for as variable lease payments in the affected periods.

***Commitments and Contractual Obligations***

*Ground Lease Obligation*

In connection with real estate acquisitions, the Company assumed certain noncancellable operating ground leases as lessee or sublessee with expiration dates through 2050. Rents on certain ground leases are paid directly by the tenants. Ground rent expense for the years ended December 31, 2021, 2020 and 2019 was $3.1 million, $3.2 million and $3.1 million, respectively.

Refer to Note 17, “Commitments and Contingencies” for the details of future minimum rental payments on noncancellable ground lease on real estate as of December 31, 2021.

***Real Estate Held for Sale***

The following table summarizes the Company’s assets and liabilities related to assets held for sale at December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Assets** | | |
| Real estate, net | $ 44,229 | $ 314,817 |
| Deferred leasing costs and intangible assets, net | 116 | 8,539 |
| **Total assets held for sale** | $ 44,345 | $ 323,356 |
| | | |
| **Liabilities** | | |
| Intangible liabilities, net | $ — | $ 323 |
| **Total liabilities related to assets held for sale** | $ — | $ 323 |

As of December 31, 2021, the Company held one net lease property and one hotel as held for sale. As of December 31, 2020, the Company held one net lease property and one net lease industrial portfolio for sale.

There were no assets held for sale that constituted discontinued operations as of December 31, 2021 and December 31, 2020.

***Real Estate Sales***

During the year ended December 31, 2021, the Company completed the sale of an industrial portfolio for a total gross sales price of $335.0 million and a total gain on sale of $11.8 million.

During the year ended December 31, 2020, the Company completed the sale of 35 properties. Sales included office, multifamily, retail, student housing, manufactured housing, hotel, and industrial properties for a total gross sales price of $476.0 million and a total net gain of $1.5 million.

On January 26, 2022, the Company sold one net leased real estate property for total gross proceeds of $19.6 million. In connection with the sale, the Company repaid $11.9 million of financing and incurred $1.0 million of selling costs. The

Company received $6.7 million of net proceeds and will recognize a net gain of approximately $5.7 million. This net leased real estate property was held for sale at December 31, 2021. Any prior claims between the buyer and seller regarding the prior termination of the purchase and sale agreement have been fully released concurrent with the sale. These sales did not constitute discontinued operations.

## 7. Deferred Leasing Costs and Other Intangibles

The Company's deferred leasing costs, other intangible assets and intangible liabilities, excluding those related to assets held for sale, at December 31, 2021 and December 31, 2020 are as follows (dollars in thousands):

| | December 31, 2021 | | |
|---|---|---|---|
| | Carrying Amount | Accumulated Amortization | Net Carrying Amount[(1)] |
| **Deferred Leasing Costs and Intangible Assets** | | | |
| In-place lease values | $ 81,869 | $ (34,555) | $ 47,314 |
| Deferred leasing costs | 29,863 | (14,701) | 15,162 |
| Above-market lease values | 10,171 | (7,666) | 2,505 |
| | $ 121,903 | $ (56,922) | $ 64,981 |
| **Intangible Liabilities** | | | |
| Below-market lease values | $ 16,166 | $ (9,942) | $ 6,224 |

(1) Excludes deferred leasing costs and intangible assets related to assets held for sale at December 31, 2021.

| | December 31, 2020 | | |
|---|---|---|---|
| | Carrying Amount | Accumulated Amortization | Net Carrying Amount[(1)] |
| **Deferred Leasing Costs and Intangible Assets** | | | |
| In-place lease values | $ 83,239 | $ (28,558) | $ 54,681 |
| Deferred leasing costs | 29,052 | (11,860) | 17,192 |
| Above-market lease values | 10,468 | (6,641) | 3,827 |
| | $ 122,759 | $ (47,059) | $ 75,700 |
| **Intangible Liabilities** | | | |
| Below-market lease values | $ 16,149 | $ (8,492) | $ 7,657 |

(1) Excludes deferred leasing costs and intangible assets and intangible liabilities related to assets held for sale at December 31, 2020.

The following table summarizes the amortization of deferred leasing costs, intangible assets and intangible liabilities for the years ended December 31, 2021, 2020 and 2019 (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| Above-market lease values | $ (1,271) | $ (2,400) | $ (4,172) |
| Below-market lease values | 1,369 | 2,815 | 7,076 |
| Net increase (decrease) to property operating income | $ 98 | $ 415 | $ 2,904 |
| | | | |
| In-place lease values | $ 6,910 | $ 12,045 | $ 21,445 |
| Deferred leasing costs | 3,104 | 5,968 | 8,400 |
| Other intangibles | 172 | 62 | 450 |
| Amortization expense | $ 10,186 | $ 18,075 | $ 30,295 |

The following table presents the amortization of deferred leasing costs, intangible assets and intangible liabilities, for each of the next five years and thereafter as of December 31, 2021 (dollars in thousands):

| | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 and thereafter | Total |
|---|---|---|---|---|---|---|---|
| Above-market lease values | $ 1,068 | $ 578 | $ 451 | $ 272 | $ 93 | $ 43 | $ 2,505 |
| Below-market lease values | (1,386) | (1,379) | (1,379) | (1,377) | (703) | — | (6,224) |
| Net increase (decrease) to property operating income | $ (318) | $ (801) | $ (928) | $ (1,105) | $ (610) | $ 43 | $ (3,719) |
| | | | | | | | |
| In-place lease values | $ 6,102 | $ 5,254 | $ 4,954 | $ 4,269 | $ 3,435 | $ 23,300 | $ 47,314 |
| Deferred leasing costs | 2,984 | 2,477 | 2,170 | 1,767 | 905 | 4,859 | 15,162 |
| Amortization expense | $ 9,086 | $ 7,731 | $ 7,124 | $ 6,036 | $ 4,340 | $ 28,159 | $ 62,476 |

The following table presents the amortization of deferred leasing costs, intangible assets and intangible liabilities, excluding those related to assets and liabilities held for sale, for each of the next five years and thereafter as of December 31, 2020 (dollars in thousands):

| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 and thereafter | Total |
|---|---|---|---|---|---|---|---|
| Above-market lease values | $ 1,331 | $ 1,074 | $ 584 | $ 456 | $ 278 | $ 104 | $ 3,827 |
| Below-market lease values | (1,433) | (1,386) | (1,379) | (1,377) | (1,375) | (707) | (7,657) |
| Net increase (decrease) to property operating income | $ (102) | $ (312) | $ (795) | $ (921) | $ (1,097) | $ (603) | $ (3,830) |
| | | | | | | | |
| In-place lease values | $ 6,907 | $ 6,181 | $ 5,333 | $ 5,033 | $ 4,348 | $ 26,879 | $ 54,681 |
| Deferred leasing costs | 3,264 | 2,802 | 2,240 | 1,933 | 1,548 | 5,405 | 17,192 |
| Amortization expense | $ 10,171 | $ 8,983 | $ 7,573 | $ 6,966 | $ 5,896 | $ 32,284 | $ 71,873 |

## 8. Restricted Cash, Other Assets and Accrued and Other Liabilities

The following table presents a summary of restricted cash as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Restricted cash:** | | |
| Borrower escrow deposits | $ 73,344 | $ 36,973 |
| Capital expenditure reserves | 8,921 | 6,949 |
| Working capital and other reserves | 2,310 | 2,561 |
| Real estate escrow reserves | 2,025 | 13,807 |
| Tenant lockboxes | 241 | 4,633 |
| Margin pledged as collateral | — | 290 |
| Total | $ 86,841 | $ 65,213 |

The following table presents a summary of other assets as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Other assets:** | | |
| Prepaid taxes and deferred tax assets | $ 26,194 | $ 26,294 |
| Right-of-use lease asset | 24,970 | 22,056 |
| Prepaid expenses | 5,069 | 4,272 |
| Deferred financing costs, net - credit facilities | 2,113 | 6,440 |
| Derivative asset | 1,373 | 386 |
| Other | 2,141 | 1,452 |
| Total | $ 61,860 | $ 60,900 |

The following table presents a summary of accrued and other liabilities as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Accrued and other liabilities:** | | |
| Current and deferred tax liability | $ 34,612 | $ 32,569 |
| Operating lease liability | 25,205 | 22,186 |
| Accounts payable, accrued expenses and other liabilities | 20,168 | 15,083 |
| Interest payable | 11,076 | 14,970 |
| Prepaid rent and unearned revenue | 7,669 | 9,082 |
| Unfunded CECL Loan Allowance | 432 | 1,313 |
| Tenant security deposits | 424 | 1,338 |
| Other | 228 | 37 |
| Total | $ 99,814 | $ 96,578 |

## 9. Debt

The following table presents debt as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | Capacity ($) | Recourse vs. Non-Recourse[1] | Final Maturity | Contractual Interest Rate | | December 31, 2021 Principal Amount[2] | December 31, 2021 Carrying Value[2] | December 31, 2020 Principal Amount[2] | December 31, 2020 Carrying Value[2] |
|---|---|---|---|---|---|---|---|---|---|
| ***Securitization bonds payable, net*** | | | | | | | | | |
| CLNC 2019-FL1[3] | | Non-recourse | Aug-35 | SOFR[4] + 1.59% | | $ 840,423 | $ 836,812 | $ 840,423 | $ 835,153 |
| BRSP 2021-FL1[3] | | Non-recourse | Aug-38 | LIBOR + 1.49% | | 670,000 | 664,087 | — | — |
| **Subtotal securitization bonds payable, net** | | | | | | 1,510,423 | 1,500,899 | 840,423 | 835,153 |
| ***Mortgage and other notes payable, net*** | | | | | | | | | |
| Net lease 6 | | Non-recourse | Oct-27 | 4.45% | | 23,117 | 23,117 | 23,608 | 23,608 |
| Net lease 5 | | Non-recourse | Nov-26 | 4.45% | | 3,282 | 3,216 | 3,351 | 3,272 |
| Net lease 4 | | Non-recourse | Nov-26 | 4.45% | | 7,081 | 6,939 | 7,230 | 7,059 |
| Net lease 3[5] | | Non-recourse | Jan-22 | 6.00% | | 11,867 | 11,807 | 12,191 | 12,163 |
| Net lease 6 | | Non-recourse | Jul-23 | LIBOR + 2.15% | | 908 | 889 | 1,364 | 1,333 |
| Net lease 5 | | Non-recourse | Aug-26 | 4.08% | | 30,639 | 30,442 | 31,244 | 31,004 |
| Net lease 1[6] | | Non-recourse | Nov-26 | 4.45% | | 17,823 | 17,465 | 18,196 | 17,765 |
| Net lease 1[7] | | Non-recourse | Mar-28 | 4.38% | | 11,769 | 11,332 | 12,021 | 11,584 |
| Net lease 1 | | Non-recourse | Jul-25 | 4.31% | | — | — | 250,000 | 247,939 |
| Net lease 2[8] | | Non-recourse | Jun-25 | 3.91% | | 181,504 | 184,078 | 187,151 | 189,806 |
| Net lease 3 | | Non-recourse | Sep-33 | 4.77% | | 200,000 | 198,689 | 200,000 | 198,604 |
| Other real estate 1 | | Non-recourse | Oct-24 | 4.47% | | 105,090 | 105,452 | 107,029 | 107,596 |
| Other real estate 3 | | Non-recourse | Jan-25 | 4.30% | | 72,359 | 71,922 | 73,905 | 73,341 |
| Other real estate 6[9] | | Non-recourse | Apr-24 | LIBOR + 2.95% | | 30,000 | 29,859 | 22,788 | 22,306 |
| Loan 9[10] | | Non-recourse | Jun-24 | LIBOR + 3.00% | | 65,377 | 65,376 | 75,377 | 75,377 |
| **Subtotal mortgage and other notes payable, net** | | | | | | 760,816 | 760,583 | 1,025,455 | 1,022,757 |
| ***Bank credit facility*** | | | | | | | | | |
| Bank credit facility | $ 300,000 | Recourse | Feb-23[11] | LIBOR + 2.25% | | — | — | — | — |
| **Subtotal bank credit facility** | | | | | | — | — | — | — |
| ***Master repurchase facilities*** | | | | | | | | | |
| Bank 1 facility 3 | $ 400,000 | Limited Recourse[12] | Apr-26[13] | LIBOR + 1.91% | (14) | 109,915 | 109,915 | 112,509 | 112,509 |
| Bank 2 facility 3 | — | Limited Recourse[12] | (15) | (16) | (14) | — | — | 19,353 | 19,353 |
| Bank 3 facility 3 | 600,000 | Limited Recourse[12] | Apr-23[17] | LIBOR + 1.81% | (14) | 157,409 | 157,409 | 196,738 | 196,738 |
| Bank 7 facility 1 | 500,000 | Limited Recourse[12] | Apr-25[18] | LIBOR + 1.77% | (14) | 358,181 | 358,181 | 89,912 | 89,912 |
| Bank 8 facility 1 | 250,000 | Limited Recourse[12] | Jun-23[19] | LIBOR + 1.98% | (14) | 177,519 | 177,519 | 116,712 | 116,712 |
| Bank 9 facility 1 | 300,000 | (20) | May-26[21] | LIBOR + 1.87% | (14) | 102,098 | 102,098 | — | — |
| **Subtotal master repurchase facilities** | $ 2,050,000 | | | | | 905,122 | 905,122 | 535,224 | 535,224 |
| **Subtotal credit facilities** | | | | | | 905,122 | 905,122 | 535,224 | 535,224 |
| **Total** | | | | | | $ 3,176,361 | $ 3,166,604 | $ 2,401,102 | $ 2,393,134 |

(1) Subject to customary non-recourse carveouts.

(2) Difference between principal amount and carrying value of securitization bonds payable, net and mortgage and other notes payable, net is attributable to deferred financing costs, net and premium/discount on mortgage notes payable.
(3) The Company, through indirect Cayman subsidiaries, securitized commercial mortgage loans originated by the Company. Senior notes issued by the securitization trusts were generally sold to third parties and subordinated notes retained by the Company. These securitizations are accounted for as secured financing with the underlying mortgage loans pledged as collateral. Principal payments from underlying collateral loans must be applied to repay the notes until fully paid off, irrespective of the contractual maturities on the notes. Underlying collateral loans have initial terms of two to three years.
(4) As of June 17, 2021, the benchmark index interest rate was converted from LIBOR to compounded SOFR, plus a benchmark adjustment of 11.448 basis points.
(5) Subsequent to December 31, 2021, the property was sold and the mortgage payable was repaid in full. See Note 21, Subsequent Events, for further details.
(6) Payment terms are periodic payment of principal and interest for debt on two properties and periodic payment of interest only with principal at maturity (except for principal repayments to release collateral properties disposed) for debt on one property.
(7) Represents a mortgage note collateralized by three properties.
(8) As of December 31, 2021, the outstanding principal of the mortgage payable was NOK 1.6 billion, which translated to $184.1 million.
(9) The current maturity of the mortgage payable is April 2022, with two one-year extensions available at the Company's option, which may be subject to the satisfaction of certain customary conditions set forth in the governing documents.
(10) The current maturity of the note payable is June 2022, with two one-year extensions available at the Company's option, which may be subject to the satisfaction of certain customary conditions set forth in the governing documents.
(11) The ability to borrow additional amounts terminated on February 1, 2022. Subsequent to December 31, 2021, the Company, through its subsidiaries, including the OP, entered into an Amended and Restated Credit Agreement. Refer to *Bank Credit Facility* within this note for more details.
(12) Recourse solely with respect to 25.0% of the financed amount.
(13) The current maturity date is April 2023, with three one-year extensions available at the option of the Company, which may be exercised upon the satisfaction of certain customary conditions set forth in the governing documents.
(14) Represents the weighted average spread as of December 31, 2021. The contractual interest rate depends upon asset type and characteristics and ranges from one-month London Interbank Offered Rates ("LIBOR") plus 1.50% to 2.60%.
(15) Upon reaching the maturity date the Company did not extend Bank 2 Facility 3 and thus no longer has availability.
(16) The interest rate will be determined by the lender in its sole discretion.
(17) The current maturity date is April 2022, with a one-year extension available at the option of the Company, which may be exercised upon the satisfaction of certain customary conditions set forth in the governing documents.
(18) The current maturity date is April 2024, with a one-year extension available at the option of the Company, which may be exercised upon the satisfaction of certain customary conditions set forth in the governing documents.
(19) The current maturity date is June 2022, with a one-year extension available at the option of the Company, which may be exercised upon the satisfaction of certain customary conditions set forth in the governing documents.
(20) Recourse is either 25.0% or 50.0% depending on loan metrics.
(21) The current maturity date is May 2024, with two one-year extensions available at the option of the Company, which may be exercised upon the satisfaction of certain customary conditions set forth in the governing documents.

Future Minimum Principal Payments

The following table summarizes future scheduled minimum principal payments at December 31, 2021 based on initial maturity dates or extended maturity dates to the extent criteria are met and the extension option is at the borrower's discretion (dollars in thousands):

| | Total | Securitization Bonds Payable, Net | Mortgage Notes Payable, Net | Credit Facilities |
|---|---|---|---|---|
| 2022 | $ 14,387 | $ — | $ 14,387 | $ — |
| 2023 | 337,494 | — | 2,566 | 334,928 |
| 2024 | 202,686 | — | 202,686 | — |
| 2025 | 614,320 | — | 256,139 | 358,181 |
| 2026 | 266,559 | — | 54,546 | 212,013 |
| 2027 and thereafter | 1,740,915 | 1,510,423 | 230,492 | — |
| Total | $ 3,176,361 | $ 1,510,423 | $ 760,816 | $ 905,122 |

*Bank Credit Facility*

On February 1, 2018, the Company, through subsidiaries, including the OP, entered into a credit agreement with several lenders to provide a revolving credit facility in the aggregate principal amount of up to $400.0 million (the "Bank Credit Facility"). On December 17, 2018, the aggregate amount of revolving commitments was increased to $525.0 million and on February 4, 2019, the aggregate amount of revolving commitments was increased to $560.0 million. On May 6, 2020, these commitments were reduced to $450.0 million and further reduced to $300.0 million on April 4, 2021.

The maximum amount available for borrowing at any time under the Bank Credit Facility is limited to a borrowing base valuation of certain investment assets, with the valuation of such investment assets generally determined according to a percentage of adjusted net book value. At December 31, 2021, the borrowing base valuation was sufficient to support the borrowing of up to $173.0 million. At December 31, 2020, the borrowing base valuation was sufficient to support the borrowing of up to $128.2 million.

Advances under the Bank Credit Facility accrue interest at a per annum rate equal to, at the applicable borrower's election, either a LIBOR rate plus a margin of 2.25%, or a base rate determined according to a prime rate or federal funds rate plus a margin of 1.25%. The Company pays a commitment fee of 0.25% or 0.35% per annum of the unused amount (0.35% at December 31, 2021), depending upon the amount of facility utilization.

Substantially all material wholly owned subsidiaries of the Company guarantee the obligations of the Company and any other borrowers under the Bank Credit Facility. As security for the advances under the Bank Credit Facility, the Company pledged substantially all equity interests it owns and granted a security interest in deposit accounts in which the proceeds of investment asset distributions are maintained.

The Bank Credit Facility contains various affirmative and negative covenants including financial covenants that require the Company to maintain minimum tangible net worth, liquidity levels and financial ratios, as specified in the Bank Credit Facility.

On April 5, 2021, the Company entered into a fourth amendment to its Bank Credit Facility to: (i) permit the OP to consummate the Internalization; (ii) reduce the minimum tangible net worth covenant requirement from $1.5 billion to $1.35 billion upon consummation of the Internalization; (iii) increase the Company's ability to make restricted payments including additional dividends and stock buybacks and remove all material restrictions on new investments, in each case, so long as no default exists and the OP is in compliance with the financial covenants; (iv) increase the maximum amount available for borrowing from 90% to 100% of borrowing base value; and (v) reduce the aggregate amount of lender commitments from $450.0 million to $300.0 million. At December 31, 2021, the Company was in compliance with all of the financial covenants.

On January 28, 2022, the Company, through subsidiaries, including the OP, entered into an Amended and Restated Credit Agreement (the "Credit Agreement"), pursuant to which the Lenders agreed to provide a revolving credit facility in the reduced aggregate principal amount of up to $165 million, of which up to $25 million is available as letters of credit. The Credit Agreement also includes an option for the Company to increase the maximum available principal amount to up to $300 million, subject to one or more new or existing lenders agreeing to provide such additional loan commitments and satisfaction of other customary conditions. The ability to borrow new amounts under the Credit Agreement terminates on January 31, 2026, at which time the Company may, at its election and by written notice to the administrative agent, extend the termination date for two (2) additional terms of six (6) months each, subject to the terms and conditions in the Credit Agreement, resulting in a latest termination date of January 31, 2027.

*Securitization Financing Transactions*

Securitization bonds payable, net represent debt issued by securitization vehicles consolidated by the Company. Senior notes issued by these securitization trusts were generally sold to third parties and subordinated notes retained by the Company. Payments from underlying collateral loans must be applied to repay the notes until fully paid off, irrespective of the contractual maturities of the loans.

*CLNC 2019-FL1*

In October 2019, the Company executed a securitization transaction, through wholly-owned subsidiaries, CLNC 2019-FL1, Ltd. and CLNC 2019-FL1, LLC (collectively, "CLNC 2019-FL1"), which resulted in the sale of $840.4 million of investment grade notes. The securitization reflects an advance rate of 83.5% at a weighted average cost of funds of SOFR plus 1.59% (before transaction expenses), and is collateralized by a pool of 26 senior loan investments.

On March 5, 2021, the Financial Conduct Authority of the U.K. (the "FCA") announced that LIBOR tenors relevant to CLNC 2019-FL1 would cease to be published or no longer be representative after June 30, 2023. The Alternative Reference Rates Committee (the "ARRC") interpreted this announcement to constitute a benchmark transition event. As of June 17, 2021, the benchmark index interest rate was converted from LIBOR to compounded SOFR, plus a benchmark adjustment of 11.448 basis points with a lookback period equal to the number of calendar days in the applicable Interest Accrual Period plus two SOFR business days, conforming with the indenture agreement and recommendations from the ARRC. Compounded SOFR for any interest accrual period shall be the "30-Day Average SOFR" as published by the Federal Reserve Bank of New York on each benchmark determination date.

CLNC 2019-FL1 included a two-year reinvestment feature that allowed the Company to contribute existing or newly originated loan investments in exchange for proceeds from repayments or repurchases of loans held in CLNC 2019-FL1, subject to the satisfaction of certain conditions set forth in the indenture. In addition to existing eligible loans available for reinvestment, the continued origination of securitization eligible loans is required to ensure that the Company reinvests the available proceeds within CLNC 2019-FL1. During the year ended December 31, 2021, two loan investments held in CLNC 2019-FL1 were removed as a result of loans becoming a credit risk collateral interest and a defaulted collateral interest, totaling $125.0 million. The Company replaced the credit risk and defaulted assets by contributing existing loan investments of equal value. The reinvestment period for CLNC 2019-FL1 expired on October 19, 2021.

Additionally, CLNC 2019-FL1 contains note protection tests that can be triggered as a result of contributed loan defaults, losses, and certain other events outlined in the indenture, beyond established thresholds. A note protection test failure that is not remedied can result in the redirection of interest proceeds from the below investment grade tranches to amortize the most senior outstanding tranche. While the Company continues to closely monitor all loan investments contributed to CLNC 2019-FL1, a deterioration in the performance of an underlying loan could negatively impact its liquidity position.

*BRSP 2021-FL1*

In July 2021, the Company executed a securitization transaction through wholly-owned subsidiaries, BRSP 2021-FL1, Ltd. and BRSP 2021-FL1, LLC (collectively, “BRSP 2021-FL1”), which resulted in the sale of $670 million of investment grade notes. The securitization reflects an advance rate of 83.75% at a weighted costs of funds of LIBOR plus 1.49% (before transaction costs), and is collateralized by a pool of 33 senior loan investments.

BRSP 2021-FL1 includes a two-year reinvestment feature that allows us to contribute existing or newly originated loan investments in exchange for proceeds from repayments or repurchases of loans held in BRSP 2021-FL1, subject to the satisfaction of certain conditions set forth in the indenture. In addition to existing eligible loans available for reinvestment, the continued origination of securitization eligible loans is required to ensure that we reinvest the available proceeds within BRSP 2021-FL1.

Additionally, BRSP 2021-FL1 contains note protection tests that can be triggered as a result of contributed loan defaults, losses, and certain other events outlined in the indenture, beyond established thresholds. A note protection test failure that is not remedied can result in the redirection of interest proceeds from the below investment grade tranches to amortize the most senior outstanding tranche. We will continue to closely monitor all loan investments contributed to BRSP 2021-FL1, a deterioration in the performance of an underlying loan could negatively impact our liquidity position.

As of December 31, 2021, the Company had $1.8 billion carrying value of CRE debt investments and other assets financed with $1.5 billion of securitization bonds payable, net. As of December 31, 2020, the Company had $1.0 billion carrying value of CRE debt investments financed with $840.4 million of securitization bonds payable, net.

*Master Repurchase Facilities*

As of December 31, 2021, the Company, through subsidiaries, had entered into repurchase agreements with multiple global financial institutions to provide an aggregate principal amount of up to $2.1 billion to finance the origination of first mortgage loans and senior loan participations secured by CRE debt investments (“Master Repurchase Facilities”). The Company agreed to guarantee certain obligations under the Master Repurchase Facilities, which contain representations, warranties, covenants, conditions precedent to funding, events of default and indemnities that are customary for agreements of this type. The Master Repurchase Facilities act as revolving loan facilities that can be paid down as assets are repaid or sold and re-drawn upon for new investments. As of December 31, 2021, the Company was in compliance with all of its financial covenants under the Master Repurchase Facilities.

As of December 31, 2021, the Company had $1.2 billion carrying value of CRE debt investments financed with $905.1 million under the master repurchase facilities. As of December 31, 2020, the Company had $862.8 million carrying value of CRE debt investments financed with $535.2 million under the master repurchase facilities.

During the first quarter of 2021, the Company entered into an amendment under its Master Repurchase Facility with Bank 3 and Bank 7 to extend the maturity date by two years and three years, respectively.

During the second quarter of 2021, the Company entered into an amendment under its Master Repurchase Facility with Bank 1, Bank 8 and Bank 9 to extend the maturity date by three years, two years and two and a half years, respectively.

During the second quarter of 2021, the Company entered into amendments under its six Master Repurchase Facilities to: (i) permit the guarantor and the OP to consummate the Internalization; and (ii) reduce the minimum tangible net worth covenant requirement from $1.5 billion to $1.35 billion upon consummation of the Internalization.

In October 2021, upon reaching the maturity date of Bank 2 Facility 3, the Company elected not to exercise the extension options and therefore terminated the facility.

Subsequent to December 31, 2021, the Company entered into amendments under its five remaining Master Repurchase Facilities to reduce the minimum tangible net worth covenant requirement from $1.35 billion to $1.11 billion.

Additionally, subsequent to December 31, 2021, the Company entered into amendments under four of its Master Repurchase Facilities to expand the eligibility criteria to allow for loans indexed to SOFR, and to allow for borrowings under those facilities indexed to SOFR.

*CMBS Credit Facilities*

As of December 31, 2021, the Company had entered into eight master repurchase agreements (collectively the “CMBS Credit Facilities”) to finance CMBS investments. The CMBS Credit Facilities are on a recourse basis and contain representations, warranties, covenants, conditions precedent to funding, events of default and indemnities that are customary for agreements of this type. The CMBS Credit Facilities were undrawn as of December 31, 2021 and December 31, 2020.

## 10. Related Party Arrangements

*Management Agreement*

On January 31, 2018, the Company and the OP entered into a management agreement (the “Management Agreement”) with the Manager, pursuant to which the Manager managed the Company’s assets and its day-to-day operations. The Manager was responsible for, among other matters, (1) the selection, origination, acquisition, management and sale of the Company’s portfolio investments, (2) the Company’s financing activities and (3) providing the Company with investment advisory services. The Manager was also responsible for the Company’s day-to-day operations and performed (or would cause to be performed) such services and activities relating to the Company’s investments and business and affairs as may be appropriate. The Management Agreement required the Manager to manage the Company’s business affairs in conformity with the investment guidelines and other policies that are approved and monitored by the Board of Directors. Each of the Company’s executive officers was also an employee of the Manager or its affiliates. The Manager’s role as Manager was under the supervision and direction of the Company’s Board of Directors.

The initial term of the Management Agreement expired on the third anniversary of the closing date of the Combination, January 31, 2018 (the “Closing Date”), and would be automatically renewed for a one-year term each anniversary date thereafter unless earlier terminated as described below. The Company’s independent directors reviewed the Manager’s performance and the fees that may be payable to the Manager annually and, following the initial term, the Management Agreement could be terminated if there was an affirmative vote of at least two-thirds of the Company’s independent directors determining that (1) there had been unsatisfactory performance by the Manager that is materially detrimental to the Company or (2) the compensation payable to the Manager, in the form of base management fees and incentive fees taken as a whole, or the amount thereof, was not fair to the Company, subject to the Manager’s right to prevent such termination due to unfair fees by accepting reduced compensation as agreed to by at least two-thirds of the Company’s independent directors. The Company was required to provide the Manager 180 days’ prior written notice of any such termination.

The Company could also terminate the Management Agreement for cause (as defined in the Management Agreement) at any time, including during the initial term, without the payment of any termination fee, with at least 30 days’ prior written notice from the Company’s Board of Directors. Unless terminated for cause, the Manager would be paid a termination fee as described below. The Manager could terminate the Management Agreement if the Company was required to register as an investment company under the Investment Company Act with such termination deemed to occur immediately before such event, in which case the Company would not be required to pay a termination fee. The Manager could have declined to renew the Management Agreement by providing the Company with 180 days’ prior written notice, in which case the Company would not be required to pay a termination fee. The Manager could also terminate the Management Agreement with at least 60 days’ prior written notice if the Company breached the Management Agreement in any material respect or otherwise was unable to perform its obligations thereunder and the breach continued for a period of 30 days after written notice to the Company, in which case the Manager would be paid a termination fee as described below.

In November 2019, the Manager, the Company and the OP amended and restated the Management Agreement to modify the “Core Earnings” definition, providing that “unrealized provisions for loan losses and real estate impairments” shall only be applied as exclusions from the definition of Core Earnings if approved by a majority of the independent directors of the Company. Such change became effective during the fourth quarter of 2019 and resulted in a reduction to Core Earnings which thereby reduced the annual management fee and any incentive fee paid by the Company due to accumulated unrealized provisions for loan losses and real estate impairments to date.

*Internalization*

On April 30, 2021, the Company completed the Internalization, including the internalization of the Company's management and operating functions and terminated its relationship with its Manager, a subsidiary of DigitalBridge, in accordance with the Termination Agreement. The Company paid the Manager a one-time termination fee of $102.3 million and additional closing costs of $0.3 million. The Company will not pay management or incentive fees to the Manager for any post-closing period. Refer to Note 1, "Business and Organization," for further details.

Fees to Manager

*Base Management Fee*

Following the Internalization on April 30, 2021, the Company no longer pays a base management fee to the Manager.

The base management fee payable to the Manager under the Management Agreement was equal to 1.5% of the Company's stockholders' equity (as defined in the Management Agreement), per annum (0.375% per quarter), payable quarterly in arrears in cash. For purposes of calculating the base management fee, the Company's stockholders' equity means: (a) the sum of (1) the net proceeds received by the Company (or, without duplication, the Company's direct subsidiaries, such as the OP) from all issuances of the Company's or such subsidiaries' common and preferred equity securities since inception (allocated on a pro rata basis for such issuances during the calendar quarter of any such issuance), plus (2) the Company's cumulative Core Earnings (as defined in the Management Agreement) from and after the Closing Date to the end of the most recently completed calendar quarter, less (b)(1) any distributions to the Company's common stockholders (or owners of common equity of the Company's direct subsidiaries, such as the OP, other than the Company or any of such subsidiaries), (2) any amount that the Company or any of the Company's direct subsidiaries, such as the OP, have paid to (x) repurchase for cash the Company's common stock or common equity securities of such subsidiaries or (y) repurchase or redeem for cash the Company's preferred equity securities or preferred equity securities of such subsidiaries, in each case since the Closing Date and (3) any incentive fee (as described below) paid to the Manager since the Closing Date.

For the years ended December 31, 2021, 2020 and 2019, the total management fee expense incurred was $9.6 million, $29.7 million and $42.4 million, respectively.

*Incentive Fee*

Following the Internalization on April 30, 2021, the Company no longer pays an incentive fee to the Manager.

The incentive fee payable to the Manager under the Management Agreement was equal to the difference between (i) the product of (a) 20% and (b) the difference between (1) Core Earnings (as defined in the Management Agreement) for the most recent 12-month period (or the Closing Date if it has been less than 12 months since the Closing Date), including the current quarter, and (2) the product of (A) common equity (as defined in the Management Agreement) in the most recent 12-month period (or the Closing Date if it has been less than 12 months since the Closing Date), and (B) 7% per annum and (ii) the sum of any incentive fee paid to the Manager with respect to the first three calendar quarters of the most recent 12-month period (or the Closing Date if it has been less than 12 months since the Closing Date), provided, however, that no incentive fee is payable with respect to any calendar quarter unless Core Earnings (as defined in the Management Agreement) is greater than zero for the most recently completed 12 calendar quarters (or the Closing Date if it has been less than 12 calendar quarters since the Closing Date).

The Company did not incur any incentive fees during the years ended December 31, 2021, 2020 and 2019.

Reimbursements of Expenses

Following the Internalization on April 30, 2021, the Company no longer reimburses expenses incurred by the Manager.

Reimbursement of expenses related to the Company incurred by the Manager, including legal, accounting, financial, due diligence and other services were paid on the Company's behalf by the OP or its designee(s). The Company reimbursed the Manager for the Company's allocable share of the salaries and other compensation of the Company's chief financial officer and certain of its affiliates' non-investment personnel who spent all or a portion of their time managing the Company's affairs, and the Company's share of such costs were based upon the percentage of such time devoted by personnel of the Manager (or its affiliates) to the Company's affairs. The Company may have been required to pay the Company's pro rata portion of rent, telephone, utilities, office furniture, equipment, machinery and other office, internal and overhead expenses of the Manager and its affiliates required for the Company's operations.

For the years ended December 31, 2021, 2020 and 2019, the total reimbursements of expenses incurred by the Manager on behalf of the Company and reimbursable in accordance with the Management Agreement was $2.8 million, $9.8 million and $11.1 million, respectively, and are included in administrative expense on the consolidated statements of operations. As of December 31, 2021, there were no unpaid expenses included in due to related party in the Company's consolidated balance sheets. As of December 31, 2020, there was $2.7 million of unpaid expenses included in due to related party in the Company's consolidated balance sheets.

Equity Plan Grants

In January 2021, the Company granted 1,420,000 shares of restricted stock and 276,000 PSUs to certain employees of the Manager under the 2018 Equity Incentive Plan (the "2018 Plan"). Following the Internalization, these employees became employees of the Company. In April 2020, the Company granted 143,000 shares to its chief executive officer. In March 2019, the Company granted 800,000 shares to the Manager and/or employees thereof under the 2018 Plan. In March 2018, the Company granted 978,946 shares to its non-independent directors, officers and the Manager and/or employees thereof under the 2018 Plan. 1,482,094 shares remain granted and unvested as of December 31, 2021. See Note 11, "Equity-Based Compensation" for further discussion on the 2018 Plan including shares issued to independent directors of the Company. In connection with these grants, the Company recognized share-based compensation of $14.0 million within administrative expense in the consolidated statement of operations for the year ended December 31, 2021. The Company recognized share-based compensation expense of $4.0 million and $10.3 million to its Manager within administrative expense in the consolidated statement of operations for the years ended December 31, 2020 and 2019, respectively.

*Investment Activity*

All investment acquisitions are approved in accordance with the Company's investment and related party guidelines, which may include approval by either the audit committee or disinterested members of the Company's Board of Directors. No investment by the Company will require approval under the related party transaction policy solely because such investment constitutes a co-investment made by and between the Company and any of its subsidiaries, on the one hand, and one or more investment vehicles formed, sponsored, or managed by an affiliate of the Manager on the other hand.

In July 2017, NorthStar Real Estate Income II, Inc., a Maryland corporation which merged with and into the Company as part of the Company's formation transactions ("NorthStar II"), entered into a joint venture with an affiliate of the Manager to make a $60.0 million investment in a $180.0 million mezzanine loan which was originated by such affiliate of the Manager. The transaction was approved by NorthStar II's board of directors, including all of its independent directors. The investment was purchased by the Company in connection with the Combination. In June 2018, the Company increased its commitment to $101.8 million in connection with the joint venture bifurcating the mezzanine loan into a mezzanine loan and a preferred equity investment. The Company's interest in both the underlying mezzanine loan and preferred equity investment is 31.8%, and the affiliate entities own the remaining 68.2%. Both the underlying mezzanine loan and preferred equity investment carry a fixed 13.0% interest rate. This investment is recorded in investments in unconsolidated ventures in the Company's consolidated balance sheets. In July 2019, the Company increased its commitment in the mezzanine loan from $101.8 million to $189.0 million. The Company's interest in the upsized mezzanine loan is 45.2% and it carries a fixed 13.0% interest rate. During the three months ended June 30, 2020, the Company made its pro-rata share of two protective advances to the senior mortgage lender totaling $28.5 million. The Company placed this investment on nonaccrual status as of April 1, 2020. In September 2020 the Company's mezzanine loan and preferred equity investment was converted into a mezzanine participation. See Note 4, "Investments in Unconsolidated Ventures," for further information.

In July 2018, the Company acquired a $326.8 million Class A office campus located in Norway from an affiliate of the Company's Manager. In connection with the purchase, the Company assumed senior mortgage financing from a private bond issuance of $181.5 million. The bonds mature in June 2025 and carry a fixed interest rate of 3.91%.

In July 2018, the Company entered into a joint venture to invest in a development project for land and a Grade A office building in Ireland. The Company agreed to invest up to $69.9 million of the $139.7 million total commitment. The Company co-invested along with two affiliates of the Manager, with the Company owning 50.0% of the joint venture and the affiliate entities owning the remaining 50.0%. The joint venture invested in a senior mortgage loan of $66.7 million with a fixed interest rate of 12.5% and a maturity date of 3.5 years from origination and common equity. This investment was sold as part of the Co-Invest Portfolio Sale in December 2021. See Note 4, "Investments in Unconsolidated Ventures," for further information.

In October 2018, the Company entered into a joint venture to invest in a mixed-use development project in Ireland. The Company agreed to invest up to $162.4 million of the $266.5 million total commitment. The Company co-invested along with two affiliates of the Manager, with the Company owning 61.0% of the joint venture and the affiliate entities owning the remaining 39.0%. The joint venture invested in a senior mortgage loan with a fixed interest rate of 15.0% and a maturity date of two years from origination. The Company placed this investment on nonaccrual status as of July 1, 2020. This investment was sold as part of the Co-Invest Portfolio Sale in December 2021. See Note 4, “Investments in Unconsolidated Ventures,” for further information.

**11. Equity-Based Compensation**

On January 29, 2018, the Company’s Board of Directors adopted the 2018 Plan. The 2018 Plan permits the grant of awards with respect to 4.0 million shares of the Class A common stock, subject to adjustment pursuant to the terms of the 2018 Plan. Awards may be granted under the 2018 Plan to (x) the Manager or any employee, officer, director, consultant or advisor (who is a natural person) providing services to the Company, the Manager or their affiliates and (y) any other individual whose participation in the 2018 Plan is determined to be in the best interests of the Company. The following types of awards may be made under the 2018 Plan, subject to the limitations set forth in the plan: (i) stock options (which may be either incentive stock options or non-qualified stock options); (ii) stock appreciation rights; (iii) restricted stock awards; (iv) stock units; (v) unrestricted stock awards; (vi) dividend equivalent rights; (vii) performance awards; (viii) annual cash incentive awards; (ix) long-term incentive units; and (x) other equity-based awards.

Shares subject to an award granted under the 2018 Plan will be counted against the maximum number of shares of Class A common stock available for issuance thereunder as one share of Class A common stock for every one share of Class A common stock subject to such an award. Shares subject to an award granted under the 2018 Plan will again become available for issuance under the 2018 Plan if the award terminates by expiration, forfeiture, cancellation, or otherwise without the issuance of such shares (except as set forth in the following sentence). The number of shares of Class A common stock available for issuance under the 2018 Plan will not be increased by (i) any shares tendered or withheld in connection with the purchase of shares upon exercise of a stock option, (ii) any shares deducted or delivered in connection with the Company’s tax withholding obligations, or (iii) any shares purchased by the Company with proceeds from stock option exercises. The shares granted in May 2020 to the independent directors of the Company under the 2018 Plan vested in May 2021. The shares granted in June 2021 to the independent directors, as well as in October and December to the two newly appointed independent directors, of the Company under the 2018 Plan vest in May 2022. Shares granted to non-independent directors, officers and the Manager under the 2018 Plan vest ratably in three annual installments.

*Restricted Stock*—Restricted stock awards relating to the Company’s class A common stock are granted to independent directors of the Company and generally vest within one year and restricted stock were granted to certain employees of the Manager, with a service condition only and are generally subject to annual time-based vesting in equal tranches over a three-year period. Restricted stock is entitled to dividends declared and paid on the Company’s class A common stock and such dividends are not forfeitable prior to vesting of the award. Restricted stock awards are valued based on the Company’s class A common stock price on grant date and equity-based compensation expense is recognized on a straight-line basis over the requisite three-year service period. Some employees of the Manager who were granted restricted stock under the 2018 Plan became employees of the Company following the Internalization on April 30, 2021. The shares held by substantially all remaining employees of the Manager vested following the Internalization.

*Performance Stock Units (“PSU”)*—PSUs are granted to certain employees of the Company and are subject to both a service condition and a performance condition. Following the end of the measurement period for the PSUs, the recipients of PSUs may be eligible to vest in all or a portion of PSUs granted, and be issued a number of shares of the Company’s class A common stock, ranging from 0% to 200% of the number of PSUs granted and eligible to vest, to be determined based upon the performance of the Company’s class A common stock relative to the Company’s GAAP book value at the end of a two-year measurement period. PSUs also contain dividend equivalent rights which entitle the recipients to a payment equal to the amount of dividends that would have been paid on the shares that are ultimately issued at the end of the measurement period.

Fair value of PSUs, including dividend equivalent rights, was determined using a Monte Carlo simulation, with the following assumptions:

| | 2021 Grant |
|---|---|
| Expected volatility[1] | 86.6 % |
| Risk free rate[2] | 0.1 % |
| Expected dividend yield[3] | — |

(1) Based upon the Company's historical stock volatility.
(2) Based upon the continuously compounded zero-coupon U.S. Treasury yield for the term coinciding with the measurement period of the award as of valuation date.
(3) Based upon the dividend yield in place as of the grant date.

Fair value of PSU awards, excluding dividend equivalent rights, is recognized on a straight-line basis over their measurement period as compensation expense, and is subject to reversal if the performance condition is not achieved.

The table below summarizes the Company's awards granted, forfeited or vested under the 2018 Plan during the years ended December 31, 2021 and December 31, 2020:

| | Number of Shares | | | Weighted Average Grant Date Fair Value | |
|---|---|---|---|---|---|
| | Restricted Stock | PSUs | Total | Restricted Stock | PSUs |
| Unvested Shares at December 31, 2019 | 1,335,590 | — | 1,335,590 | $ 17.79 | $ — |
| Granted | 237,340 | — | 237,340 | 3.70 | — |
| Vested | (476,747) | — | (476,747) | 17.33 | — |
| Forfeited | (211,113) | — | (211,113) | 17.20 | — |
| Unvested shares at December 31, 2020 | 885,070 | — | 885,070 | $ 16.16 | $ — |
| Granted | 1,468,293 | 276,000 | 1,744,293 | 8.36 | 11.96 |
| Vested | (871,269) | (4,000) | (875,269) | 15.19 | 11.96 |
| Unvested shares at December 31, 2021 | 1,482,094 | 272,000 | 1,754,094 | 12.35 | 11.96 |

Fair value of equity awards that vested during the years ended December 31, 2021 and December 31, 2020, determined based on their respective fair values at vesting date, was $5.4 million and $2.8 million, respectively. Fair value of granted awards is determined based on the closing price of the Class A common stock on the date of grant of the awards. Equity-based compensation is classified within administrative expense in the consolidated statement of operations.

At December 31, 2021, aggregate unrecognized compensation cost for all unvested equity awards was $8.5 million, which is expected to be recognized over a weighted-average period of 1.9 years. At December 31, 2020, aggregate unrecognized compensation cost for all unvested equity awards was $4.1 million, expected to be recognized over a weighted-average period of 1.1 years.

## 12. Stockholders' Equity

*Authorized Capital*

As of December 31, 2021, the Company had the authority to issue up to 1.0 billion shares of stock, at $0.01 par value per share, consisting of 950.0 million shares of Class A common stock and 50.0 million shares of preferred stock.

The Company had no shares of preferred stock issued and outstanding as of December 31, 2021 and December 31, 2020.

*Dividends*

During the year ended December 31, 2021, the Company declared the following dividends on its common stock:

| Declaration Date | Record Date | Payment Date | Per Share |
|---|---|---|---|
| February 24, 2021 | March 31, 2021 | April 15, 2021 | $0.10 |
| April 30, 2021 | June 30, 2021 | July 15, 2021 | $0.14 |
| August 4, 2021 | September 30, 2021 | October 15, 2021 | $0.16 |
| November 3, 2021 | December 31, 2021 | January 14, 2022 | $0.18 |

*Accumulated Other Comprehensive Income (Loss)*

The following tables present the changes in each component of Accumulated Other Comprehensive Income (Loss) ("AOCI") attributable to stockholders and noncontrolling interests in the OP, net of immaterial tax effect.

Changes in Components of AOCI - Stockholders

| *(in thousands)* | Unrealized gain (loss) on real estate securities, available for sale | Unrealized gain on net investment hedges | Foreign currency translation gain (loss) | Total |
|---|---|---|---|---|
| **AOCI at December 31, 2018** | $ (1,295) | $ 11,037 | $ (10,141) | $ (399) |
| Other comprehensive income (loss) | 17,204 | 14,835 | (3,346) | 28,693 |
| **AOCI at December 31, 2019** | $ 15,909 | $ 25,872 | $ (13,487) | $ 28,294 |
| Other comprehensive income (loss) before reclassification | (88,646) | 21,255 | 20,673 | (46,718) |
| Amounts reclassified from AOCI | 73,012 | — | — | 73,012 |
| Net current period OCI | (15,634) | 21,255 | 20,673 | 26,294 |
| **AOCI at December 31, 2020** | $ 275 | $ 47,127 | $ 7,186 | $ 54,588 |
| Other comprehensive income (loss) before reclassification | 137 | — | (10,905) | (10,768) |
| Amounts reclassified from AOCI | (412) | (29,234) | (5,468) | (35,114) |
| Net current period OCI | (275) | (29,234) | (16,373) | (45,882) |
| **AOCI at December 31, 2021** | $ — | $ 17,893 | $ (9,187) | $ 8,706 |

Changes in Components of AOCI - Noncontrolling Interests in the OP

| *(in thousands)* | Unrealized gain (loss) on real estate securities, available for sale | Unrealized gain on net investment hedges | Foreign currency translation loss | Total |
|---|---|---|---|---|
| **AOCI at December 31, 2018** | $ (32) | $ 268 | $ (246) | $ (10) |
| Other comprehensive income (loss) | 644 | 625 | (555) | 714 |
| **AOCI at December 31, 2019** | $ 612 | $ 893 | $ (801) | $ 704 |
| Other comprehensive income (loss) before reclassification | (2,431) | 510 | 529 | (1,392) |
| Amounts reclassified from AOCI | 1,746 | — | — | 1,746 |
| Net current period OCI | (685) | 510 | 529 | 354 |
| **AOCI at December 31, 2020** | $ (73) | $ 1,403 | $ (272) | $ 1,058 |
| Other comprehensive income (loss) before reclassification | 98 | — | (473) | (375) |
| Amounts reclassified from AOCI | (25) | (693) | (127) | (845) |
| Net current period OCI | 73 | (693) | (600) | (1,220) |
| **AOCI at December 31, 2021** | $ — | $ 710 | $ (872) | $ (162) |

Changes in Components of AOCI - Noncontrolling Interests in investment entities

| *(in thousands)* | Unrealized gain (loss) on real estate securities, available for sale | Unrealized gain (loss) on net investment hedges | Foreign currency translation gain (loss) | Total |
|---|---|---|---|---|
| **AOCI at December 31, 2018** | $ — | $ — | $ — | $ — |
| Other comprehensive income | — | — | — | — |
| **AOCI at December 31, 2019** | $ — | $ — | $ — | $ — |
| Other comprehensive income | — | — | 2,193 | 2,193 |
| **AOCI at December 31, 2020** | $ — | $ — | $ 2,193 | $ 2,193 |
| Other comprehensive income before reclassification | — | — | (321) | (321) |
| Amounts reclassified from AOCI | — | — | — | — |
| Net current period OCI | — | — | (321) | (321) |
| **AOCI at December 31, 2021** | $ — | $ — | $ 1,872 | $ 1,872 |

The following table presents the details of the reclassifications from AOCI for the year ended December 31, 2021:

*(in thousands)*

| Component of AOCI reclassified into earnings | Year Ended December 31, 2021 | Affected Line Item in the Consolidated Statements of Operations |
|---|---|---|
| Realized gain on sale of real estate securities | $ 1,276 | Other gain (loss), net |
| Impairment of real estate securities | (967) | Other gain (loss), net |
| Foreign currency translation gain (loss) | 5,468 | Other gain (loss), net |
| Realized gain (loss) on net investment hedges | 29,234 | Other gain (loss), net |

## 13. Noncontrolling Interests

*Operating Partnership*

Noncontrolling interests include the aggregate limited liability interests in the OP held by an affiliate of DigitalBridge. Net income (loss) attributable to the noncontrolling interests is based on such members ownership percentage of the OP. Net loss attributable to the noncontrolling interests of the OP was $1.8 million, $8.4 million and $9.9 million for the years ended December 31, 2021, 2020 and 2019, respectively.

*Investment Entities*

Noncontrolling interests in investment entities represent third-party equity interests in ventures that are consolidated with the Company's financial statements. Net loss attributable to noncontrolling interests in the investment entities was $1.7 million, $13.9 million and $38.2 million for the years ended December 31, 2021, 2020 and 2019, respectively.

*5-Investment Preferred Financing*

On June 5, 2020, subsidiaries of the Company entered into a preferred financing arrangement (on a portfolio of five underlying Company investment interests) (the "5-Investment Preferred Financing") from investment vehicles managed by Goldman Sachs ("GS"). The preferred financing provided $200 million of proceeds at closing. During the fourth quarter of 2021, the Company repaid the 5-Investment Preferred Financing, as described below.

The preferred financing was limited to (i) the Company's interests in four co-investments alongside investment funds managed by affiliates of the Company's former Manager, each of which are financings on underlying development projects (including residential, office and/or mixed-use components), and (ii) a wholly-owned triple-net industrial distribution center investment leased to a national grocery chain. The preferred financing provided GS a 10% preferred return and certain other minimum returns, as well as a minority interest in future cash flows.

The preferred financing provided for a disproportionate allocation of profits and losses, and thus each party's share of earnings or loss is determined using a balance sheet approach known as the HLBV method. Under the HLBV method, earnings and losses were recognized based on the change in each party's capital account from the beginning of the period in question to the end of the period, adjusting for the effects of distributions and new investments. The entity measured each party's capital account assuming that the subsidiary was liquidated or sold at book value.

During the fourth quarter of 2021, the four co-investments were sold in the Co-invest Portfolio Sale (refer to Note 4, "Investments in Unconsolidated Ventures" for more details on this transaction) and the Company used all the sale proceeds to substantially fund the repayment of the 5-Investment Preferred Financing totaling $210 million. The payoff allowed us to reclaim 100% ownership of the triple net warehouse distribution portfolio leased to a national grocery chain. As a result of the repayment, the noncontrolling interest investment entities relating to GS's investment was extinguished and there was a $5.3 million gain recognized in noncontrolling interests in investment entities on the Consolidation Statement of Operations.

**14. Fair Value**

*Determination of Fair Value*

The following is a description of the valuation techniques used to measure fair value of assets accounted for at fair value on a recurring basis and the general classification of these instruments pursuant to the fair value hierarchy.

<u>PE Investments</u>

The Company accounts for PE Investments at fair value which is determined based on either a valuation model using assumptions for the timing and amount of expected future cash flow for income and realization events for the underlying assets in the funds and discount rate, or pending sales prices, if applicable. This fair value measurement is generally based on unobservable inputs and, as such, is classified as Level 3 of the fair value hierarchy, unless the PE Investments are valued based on pending sales prices, which are classified as Level 2 of the fair value hierarchy. The Company considers cash flow and NAV information provided by general partners of the underlying funds ("GP NAV") and the implied yields of those funds in valuing its PE Investments. The Company also considers the values derived from the valuation model as a percentage of GP NAV, and compares the resulting percentage of GP NAV to precedent transactions, independent research, industry reports as well as pricing from executed purchase and sale agreements related to the disposition of its PE Investments. The Company may, as a result of that comparison, apply a mark-to-market adjustment. The Company has not elected the practical expedient to measure the fair value of its PE Investments using the NAV of the underlying funds.

<u>Real Estate Securities</u>

CRE securities are generally valued using a third-party pricing service or broker quotations. These quotations are not adjusted and are based on observable inputs that can be validated, and as such, are classified as Level 2 of the fair value hierarchy. Certain CRE securities may be valued based on a single broker quote, dealer bid or an internal price. Situations where management applies adjustments based on or using unobservable inputs and would be classified as Level 3 of the fair value hierarchy. Management determines the prices are representative of fair value through a review of available data, including observable inputs, recent transactions as well as its knowledge of and experience in the market.

*Investing VIEs*

As discussed in Note 5, "Real Estate Securities, Available for Sale," the Company has elected the fair value option for the financial assets and liabilities of the consolidated Investing VIEs. The Investing VIEs are "static," that is no reinvestment is permitted and there is very limited active management of the underlying assets. The Company is required to determine whether the fair value of the financial assets or the fair value of the financial liabilities of the Investing VIEs are more observable, but in either case, the methodology results in the fair value of the assets of the securitization trust being equal to the fair value of their liabilities. The Company has determined that the fair value of the liabilities of the securitization trust is more observable, since market prices for the liabilities are available from a third-party pricing service or are based on quoted prices provided by dealers who make markets in similar financial instruments. The financial assets of the securitization trust is not readily marketable and their fair value measurement requires information that may be limited in availability.

In determining the fair value of the trust's financial liabilities, the dealers will consider contractual cash payments and yields expected by market participants. Dealers also incorporate common market pricing methods, including a spread measurement to the treasury curve or interest rate swap curve as well as underlying characteristics of the particular security including coupon, periodic and life caps, collateral type, rate reset period and seasoning or age of the security. The Company's collateralized mortgage obligations are classified as Level 2 of the fair value hierarchy, where a third-party pricing service or broker quotations are available and are based on observable valuation inputs, and as Level 3 of the fair value hierarchy, where internal price is utilized based on or using unobservable inputs. In accordance with ASC 810, *Consolidation*, the assets of the securitization trust are an aggregate value derived from the fair value of the trust's liabilities, and the Company has determined that the valuation of the trust's assets in their entirety including its retained interests from the securitizations (eliminated in consolidation in accordance with U.S. GAAP) should be classified as Level 3 of the fair value hierarchy.

Derivatives

Derivative instruments consist of interest rate contracts and foreign exchange contracts that are generally traded over-the-counter, and are valued using a third-party service provider. Quotations on over-the counter derivatives are not adjusted and are generally valued using observable inputs such as contractual cash flows, yield curve, foreign currency rates and credit spreads, and are classified as Level 2 of the fair value hierarchy. Although credit valuation adjustments, such as the risk of default, rely on Level 3 inputs, these inputs are not significant to the overall valuation of its derivatives. As a result, derivative valuations in their entirety are classified as Level 2 of the fair value hierarchy.

Fair Value Hierarchy

Financial assets recorded at fair value on a recurring basis are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The following table presents financial assets that were accounted for at fair value on a recurring basis as of December 31, 2021 and December 31, 2020 by level within the fair value hierarchy (dollars in thousands):

| | December 31, 2021 | | | | December 31, 2020 | | | |
|---|---|---|---|---|---|---|---|---|
| | Level 1 | Level 2 | Level 3 | Total | Level 1 | Level 2 | Level 3 | Total |
| **Assets:** | | | | | | | | |
| Investments in unconsolidated ventures - PE Investments | $ — | $ — | $ 4,406 | $ 4,406 | $ — | $ 5 | $ 6,878 | $ 6,883 |
| Real estate securities, available for sale | — | — | — | — | — | 10,389 | — | 10,389 |
| Mortgage loans held in securitization trusts, at fair value | — | — | 813,310 | 813,310 | — | — | 1,768,069 | 1,768,069 |
| Other assets - derivative assets | — | 1,373 | — | 1,373 | — | 386 | — | 386 |
| **Liabilities:** | | | | | | | | |
| Mortgage obligations issued by securitization trusts, at fair value | $ — | $ 777,156 | $ — | $ 777,156 | $ — | $ 1,708,534 | $ — | $ 1,708,534 |
| Other liabilities - derivative liabilities | — | 9 | — | 9 | — | 37 | — | 37 |

The following table presents the changes in fair value of financial assets which are measured at fair value on a recurring basis using Level 3 inputs to determine fair value for the years ended December 31, 2021 and 2020 (dollars in thousands):

| | Year Ended December 31, 2021 | | Year Ended December 31, 2020 | |
|---|---|---|---|---|
| | Investments in unconsolidated ventures - PE Investments | Mortgage loans held in securitization trusts(1) | Investments in unconsolidated ventures - PE Investments | Mortgage loans held in securitization trusts(1) |
| **Beginning balance** | $ 6,878 | $ 1,768,069 | $ 8,858 | $ 1,872,970 |
| Distributions/paydowns | (2,380) | (78,903) | (2,649) | (76,719) |
| Sale of investments | — | (28,662) | — | — |
| Deconsolidation of securitization trust(2) | — | (802,196) | — | — |
| Equity in earnings | (92) | — | 669 | — |
| Unrealized loss in earnings | — | (8,375) | — | (28,182) |
| Realized loss in earnings | — | (36,623) | — | — |
| **Ending balance** | $ 4,406 | $ 813,310 | $ 6,878 | $ 1,768,069 |

(1) For the year ended December 31, 2021, the Company recorded an unrealized loss of $8.4 million related to mortgage loans held in securitization trusts, at fair value and an unrealized gain of $50.3 million related to mortgage obligations issued by securitization trusts, at fair value.
(2) In April 2021, the Company sold its retained investments in the subordinate tranches of one securitization trust. As a results of the sale, the Company deconsolidated one of the securitization trusts. See Note 5, "Real Estate Securities, Available for Sale" for further information.

As of December 31, 2021 and December 31, 2020, the Company utilized a discounted cash flow model, comparable precedent transactions and other market information to quantify Level 3 fair value measurements on a recurring basis. As of December 31, 2021 and December 31, 2020, the key unobservable inputs used in the analysis of PE Investments included discount rates with a range of 11.0% to 12.0% and timing and amount of expected future cash flows. As of December 31, 2021, the key unobservable inputs used in the valuation of mortgage obligations issued by securitization trusts included a blended yield of 17.5% and a weighted average life of 5.4 years. As of December 31, 2020, the key unobservable inputs included yields ranging from 21.1% to 53.7%, respectively, and a weighted average life of 5.0 years. Significant increases or decreases in any one of the inputs described above in isolation may result in significantly different fair value of the financial assets and liabilities using such Level 3 inputs.

For the year ended December 31, 2021, the Company recorded a $36.6 million realized loss on mortgage loans held in securitization trusts, at fair value, which is comprised of a $19.5 million loss upon the sale of the Company’s retained interests in the subordinate tranches of one securitization trust. Additionally, the Company recorded a realized loss of $17.1 million related to the sale of two underlying loans held within one of its retained investments in the subordinate tranches of another securitization trust, of which the realized losses were previously included in the Company’s loss projections and therefore no further fair value write downs were required. For the year ended December 31, 2020, the Company did not record a realized gain on mortgage loans held in securitization trusts, at fair value. For the year ended December 31, 2019, the Company recorded a realized gain of $2.8 million on mortgage loans held in securitization trusts, at fair value, which represents the gain upon sale of the Company’s retained interests in the subordinate tranches of one securitization trust. This amount is recorded as realized gain on mortgage loans and obligations held in securitization trusts, net in the consolidated statement of operations.

For the years ended December 31, 2021, 2020 and 2019 the Company recorded a net unrealized gain of $41.9 million, net unrealized loss of $50.5 million and net unrealized gain of $4.1 million, respectively, related to mortgage loans held in securitization trusts, at fair value. These amounts, when incurred, are recorded as unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net in the consolidated statement of operations.

*Fair Value Option*

The Company may elect to apply the fair value option of accounting for certain of its financial assets or liabilities due to the nature of the instrument at the time of the initial recognition of the investment. The Company elected the fair value option for PE Investments and eligible financial assets and liabilities of its consolidated Investing VIEs because management believes it is a more useful presentation for such investments. The Company determined recording the PE Investments based on the change in fair value of projected future cash flow from one period to another better represents the underlying economics of the respective investment. As of December 31, 2021 and December 31, 2020, the Company has elected not to apply the fair value option for any other eligible financial assets or liabilities.

*Fair Value of Financial Instruments*

In addition to the above disclosures regarding financial assets or liabilities which are recorded at fair value, U.S. GAAP requires disclosure of fair value about all financial instruments. The following disclosure of estimated fair value of financial instruments was determined by the Company using available market information and appropriate valuation methodologies. Considerable judgment is necessary to interpret market data and develop estimated fair value. Accordingly, the estimates presented herein are not necessarily indicative of the amounts the Company could realize on disposition of the financial instruments. The use of different market assumptions and/or estimation methodologies may have a material effect on estimated fair value.

The following table presents the principal amount, carrying value and fair value of certain financial assets and liabilities as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | December 31, 2021 | | | December 31, 2020 | | |
|---|---|---|---|---|---|---|
| | Principal Amount | Carrying Value | Fair Value | Principal Amount | Carrying Value | Fair Value |
| Financial assets:[1] | | | | | | |
| Loans and preferred equity held for investment, net | $ 3,500,658 | $ 3,449,009 [2] | $ 3,464,060 | $ 2,225,856 [2] | $ 2,183,497 | $ 2,189,006 |
| Financial liabilities:[1] | | | | | | |
| Securitization bonds payable, net | $ 1,510,423 | $ 1,500,899 | $ 1,510,423 | $ 840,423 | $ 835,153 | $ 840,423 |
| Mortgage and other notes payable, net | 760,816 | 760,583 | 760,816 | 1,025,455 | 1,022,757 | 1,025,455 |
| Master repurchase facilities | 905,122 | 905,122 | 905,122 | 535,224 | 535,224 | 535,224 |

(1) The fair value of other financial instruments not included in this table is estimated to approximate their carrying value.
(2) Excludes future funding commitments of $264.9 million and $163.0 million as of December 31, 2021 and December 31, 2020, respectively.

Disclosure about fair value of financial instruments is based on pertinent information available to management as of December 31, 2021. Although management is not aware of any factors that would significantly affect fair value, such amounts have not been comprehensively revalued for purposes of these consolidated financial statements since that date and current estimates of fair value may differ significantly from the amounts presented herein.

Loans and Preferred Equity Held for Investment, Net

For loans and preferred equity held for investment, net, fair values were determined: (i) by comparing the current yield to the estimated yield for newly originated loans with similar credit risk or the market yield at which a third party might expect to purchase such investment; or (ii) based on discounted cash flow projections of principal and interest expected to be collected, which includes consideration of the financial standing of the borrower or sponsor as well as operating results of the underlying collateral. These fair value measurements of CRE debt are generally based on unobservable inputs and, as such, are classified as Level 3 of the fair value hierarchy. Carrying values of loans and preferred equity held for investment are presented net of allowance for loan losses, where applicable.

Securitization Bonds Payable, Net

The Company's securitization bonds payable, net bear floating rates of interest. As of December 31, 2021, the Company believes the carrying value approximates fair value. These fair value measurements are based on observable inputs, and as such, are classified as Level 2 of the fair value hierarchy.

Mortgage and Other Notes Payable, Net

For mortgage and other notes payable, net, the Company primarily uses rates currently available with similar terms and remaining maturities to estimate fair value. These measurements are determined using comparable U.S. Treasury rates as of the end of the reporting period. These fair value measurements are based on observable inputs, and as such, are classified as Level 2 of the fair value hierarchy.

Master Repurchase Facilities

The Company has amounts outstanding under Master Repurchase Facilities. The Master Repurchase Facilities bear floating rates of interest. As of December 31, 2021, the Company believes the carrying value approximates fair value. These fair value measurements are based on observable inputs, and as such, are classified as Level 2 of the fair value hierarchy.

Other

The carrying values of cash and cash equivalents, receivables, and accrued and other liabilities approximate fair value due to their short term nature and credit risk, if any, are negligible.

*Nonrecurring Fair Values*

The Company measures fair value of certain assets on a nonrecurring basis when events or changes in circumstances indicate that the carrying value of the assets may not be recoverable. Adjustments to fair value generally result from the application of lower of amortized cost or fair value accounting for assets held for sale or write-down of asset values due to impairment.

The following table summarizes assets carried at fair value on a nonrecurring basis as of December 31, 2021 (dollars in thousands):

| | December 31, 2021 | | | |
|---|---|---|---|---|
| | Level 1 | Level 2 | Level 3 | Total |
| Loans and preferred equity held for investment, net[(1)] | $ — | $ — | $ 38,083 | $ 38,083 |

(1) See Note 3 "Loans and Preferred Equity Held for Investment, net" for further details.

The Company did not hold any assets carried at fair value on a nonrecurring basis as of December 31, 2020.

## 15. Derivatives

The Company uses derivative instruments to manage the risk of changes in interest rates and foreign exchange rates, arising from both its business operations and economic conditions. Specifically, the Company enters into derivative instruments to manage differences in the amount, timing, and duration of the Company's known or expected cash receipts and cash payments, the values of which are driven by interest rates, principally relating to the Company's investments. Additionally, the Company's foreign operations expose the Company to fluctuations in foreign exchange rates. The Company enters into derivative instruments to protect the value or fix certain of these foreign-denominated amounts in terms of its functional currency, the U.S. dollar. Derivative instruments used in the Company's risk management activities may be designated as qualifying hedge accounting relationships designated hedges or non-designated hedges.

As of December 31, 2021 and December 31, 2020, fair value of derivative assets and derivative liabilities were as follows (dollars in thousands):

| | Non-Designated Hedges | |
|---|---|---|
| | December 31, 2021 | December 31, 2020 |
| **Derivative Assets** | | |
| Foreign exchange contracts | $ 1,373 | $ 386 |
| Included in other assets | $ 1,373 | $ 386 |
| **Derivative Liabilities** | | |
| Interest rate contracts | $ (9) | $ (37) |
| Included in accrued and other liabilities | $ (9) | $ (37) |

As of December 31, 2021, the Company's counterparties held $0.1 million in cash collateral.

The following table summarizes the Company's interest rate contracts as of December 31, 2021 and December 31, 2020:

| | | Notional Amount (in thousands) | |
|---|---|---|---|
| **Type of Derivatives** | **Notional Currency** | **Non-Designated** | **Range of Maturity Dates** |
| **December 31, 2021** | | | |
| FX Forward | NOK | 190,772 | February 2022 - May 2024 |
| Interest Rate Swap | USD | $ 30,762 | April 2022 - July 2023 |
| | | | |
| **December 31, 2020** | | | |
| Put Option | NOK | 928,000 | July 2021 |
| Interest Rate Swap | USD | $ 109,414 | April 2021 - July 2023 |

The table below represents the effect of the derivative financial instruments on the consolidated statements of operations and of comprehensive income (loss) for the years ended December 31, 2021, 2020 and 2019 (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | **2021** | **2020** | **2019** |
| **Other gain (loss), net** | | | |
| Non-designated foreign exchange contracts | $ 37,674 | $ 2,979 | $ 1,286 |
| Non-designated interest rate contracts | 28 | (17,085) | (10,966) |
| | $ 37,702 | $ (14,106) | $ (9,680) |
| **Other income** | | | |
| Non-designated foreign exchange contracts | $ — | $ 178 | $ — |
| | $ — | $ 178 | $ — |
| **Accumulated other comprehensive income (loss)** | | | |
| Designated foreign exchange contracts | $ (29,927) | $ 21,764 | $ 15,460 |
| | $ (29,927) | $ 21,764 | $ 15,460 |

At the end of each quarter, the Company reassesses the effectiveness of its net investment hedges and as appropriate, dedesignates the portion of the derivative notional that is in excess of the beginning balance of its net investments as non-designated hedges. Any unrealized gain or loss on the dedesignated portion of net investment hedges is transferred into earnings, recorded in other gain (loss), net. During the year ended December 31, 2021, $29.9 million was transferred from accumulated other comprehensive income (loss) to other gain (loss), net relating to foreign exchange contracts that were unwound during the first quarter of 2020. The underlying assets associated with the foreign exchange contracts were included in the Co-Invest Portfolio Sale, and at the closing of such sale the accumulated gains were reversed and subsequently recorded to other gain (loss), net (refer to Note 4, "Investments in Unconsolidated Ventures" for more details on this transaction). During the years ended 2020 and 2019, no gain (loss) was transferred from accumulated other comprehensive income (loss).

During the year ended December 31, 2021, the Company unwound three USD-EUR forward swaps and recognized a realized gain of $6.4 million that was recorded in other gain (loss), net. The swaps were designed to minimize foreign currency cash flow risk on the Company's European denominated assets included in the Co-Invest Portfolio Sale (refer to Note 4, "Investments in Unconsolidated Ventures" for more details on this transaction). During the year ended December 31, 2021, the Company also unwound two USD-NOK forward swaps and recognized a realized gain of $0.4 million that was recorded in other gain (loss), net.

*Offsetting Assets and Liabilities*

The Company enters into agreements subject to enforceable netting arrangements with its derivative counterparties that allow the Company to offset the settlement of derivative assets and liabilities in the same currency by derivative instrument type or, in the event of default by the counterparty, to offset all derivative assets and liabilities with the same counterparty. The Company has elected not to net derivative asset and liability positions, notwithstanding the conditions for right of offset may have been met. The Company presents derivative assets and liabilities with the same counterparty on a gross basis on the consolidated balance sheets.

The following table sets forth derivative positions where the Company has a right of offset under netting arrangements with the same counterparty as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| | Gross Amounts of Assets (Liabilities) Included on Consolidated Balance Sheets | Net Amounts of Assets (Liabilities) |
|---|---|---|
| **December 31, 2021** | | |
| **Derivative Assets** | | |
| Foreign exchange contracts | $ 1,373 | $ 1,373 |
| | $ 1,373 | $ 1,373 |
| **Derivative Liabilities** | | |
| Interest rate contracts | $ (9) | $ (9) |
| | $ (9) | $ (9) |
| **December 31, 2020** | | |
| **Derivative Assets** | | |
| Foreign exchange contracts | $ 386 | $ 386 |
| | $ 386 | $ 386 |
| **Derivative Liabilities** | | |
| Interest rate contracts | $ (37) | $ (37) |
| | $ (37) | $ (37) |

The Company did not offset any of its derivatives positions as of December 31, 2021 and December 31, 2020.

## 16. Income Taxes

The Company is subject to income tax laws of the various jurisdictions in which it operates, including U.S. federal, state and local non-U.S. jurisdictions, primarily in Europe. The Company’s current primary sources of income subject to tax are income from its hotel investments, certain PE Investments, and real estate and loan investments in Europe.

The following table provides a summary of the Company’s tax provisions (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Current** | | | |
| Federal | $ (9,306) | $ 13,125 | $ (6,316) |
| State and local | 3,347 | (1,730) | (1,824) |
| Foreign | (402) | (669) | 316 |
| Total current tax benefit (expense) | (6,361) | 10,726 | (7,824) |
| **Deferred** | | | |
| Federal | (383) | (808) | 2,226 |
| Foreign | 468 | 980 | 2,426 |
| Total deferred tax benefit (expense) | 85 | 172 | 4,652 |
| **Total income tax benefit (expense)** | $ (6,276) | $ 10,898 | $ (3,172) |

***Deferred Income Tax Assets and Liabilities***

Deferred tax asset is included in other assets while deferred tax liability is included in accrued and other liabilities on the consolidated balance sheets.

The components of deferred tax assets and deferred tax liabilities arising from temporary differences are as follows (dollars in thousands):

| | December 31, | |
|---|---|---|
| | 2021 | 2020 |
| **Deferred tax assets** | | |
| Basis difference - investment in partnerships | $ 7,583 | $ 27,394 |
| Disallowed interest expense carry forwards | 524 | 524 |
| Lease liability—corporate offices | 1,061 | — |
| Equity-based compensation | 8 | — |
| Net operating and capital loss carry forwards[(1)] | 6,253 | 3,249 |
| Other | — | — |
| Gross deferred tax asset | 15,429 | 31,167 |
| Valuation allowance | (12,772) | (29,212) |
| Deferred tax assets, net of valuation allowance | $ 2,657 | $ 1,955 |
| | | |
| **Deferred tax liabilities** | | |
| Basis difference - real estate | (29,896) | (31,282) |
| Real estate, leases and related intangible liabilities | (115) | — |
| ROU lease asset—corporate offices | (1,061) | — |
| Other | (157) | (201) |
| Gross deferred tax liabilities | (31,229) | (31,483) |
| **Net deferred tax liability** | $ (28,572) | $ (29,528) |

(1) As of December 31, 2021 and 2020, deferred tax asset was recognized on net operating losses of $8.2 million and $6.9 million, respectively. Net operating losses attributable to U.S. federal and state income taxes, where applicable, generally begin to expire in 2034, or can be carried forward indefinitely.

### *Effective Income Tax*

The Company's income tax expense varied from the amount computed by applying the statutory income tax rate to income before income taxes. A reconciliation of the statutory U.S. income tax to the Company's effective income tax is presented as follows (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| Pre-tax income (loss) attributable to taxable entities | $ 22,077 | $ (15,652) | $ (1,316) |
| Federal tax expense (benefit) at statutory tax rate (21%) | 4,636 | (3,287) | (276) |
| State and local taxes, net of federal income tax expense (benefit) | 81 | 34 | 71 |
| Permanent adjustments | — | (116) | 10 |
| Adjustments for foreclosure property | 479 | 1,030 | 2,840 |
| Foreign income tax differential | (4) | (172) | (1,328) |
| Foreign income tax rate change | — | — | (1,383) |
| Return to provision | (1) | 1,364 | (273) |
| Valuation allowance, net | 1,365 | (6,095) | 2,402 |
| Tax rate benefit of capital loss carryback | — | (3,058) | — |
| Other | (280) | (598) | 1,109 |
| Income tax (benefit) expense | $ 6,276 | $ (10,898) | $ 3,172 |

***Tax Examinations and Uncertainty in Income Tax***

The Company is no longer subject to U.S. federal, state and local tax examinations by tax authorities for years prior to 2018. There were no material uncertain tax positions as of December 31, 2021. For the years ended December 31, 2021, 2020 and 2019, the Company has not recognized any interest or penalties related to uncertain tax positions.

## 17. Commitments and Contingencies

*Lending Commitments*

The Company has lending commitments to borrowers pursuant to certain loan agreements in which the borrower may submit a request for funding contingent on achieving certain criteria, which must be approved by the Company as lender, such as leasing, performance of capital expenditures and construction in progress with an approved budget. At December 31, 2021, assuming the terms to qualify for future fundings, if any, had been met, total unfunded lending commitments for loans and preferred equity held for investment was $264.9 million for senior loans. At December 31, 2020, total unfunded lending commitments for loans and preferred equity held for investment was $136.0 million for senior loans, $13.3 million for securitized loans and $13.7 million for mezzanine loans. At December 31, 2020, total unfunded commitments for equity method investments was $25.1 million.

*Ground Lease Obligation*

The Company’s operating leases are ground leases acquired with real estate.

At December 31, 2021 and 2020 and the weighted average remaining lease term was 13.9 years and 14.3 years for ground leases, respectively.

The following table presents ground lease expense, included in property operating expense, for the years ended December 31, 2021, 2020 and 2019 (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| Operating lease expense: | | | |
| Minimum lease expense | $ 3,057 | $ 3,194 | $ 3,134 |
| Variable lease expense | — | — | — |
| | $ 3,057 | $ 3,194 | $ 3,134 |

The operating lease liability for ground leases was determined using a weighted average discount rate of 5.3%. The following table presents future minimum rental payments, excluding contingent rents, on noncancellable ground leases on real estate as of December 31, 2021 (dollars in thousands):

| | |
|---|---|
| 2022 | $ 3,099 |
| 2023 | 3,110 |
| 2024 | 2,213 |
| 2025 | 2,148 |
| 2026 | 2,073 |
| 2027 and thereafter | 17,254 |
| Total lease payments | 29,897 |
| Less: Present value discount | 9,654 |
| Operating lease liability (Note 8) | $ 20,243 |

The following table presents future minimum rental payments, excluding contingent rents, on noncancellable ground leases on real estate as of December 31, 2020 (dollars in thousands):

| | | |
|---|---|---|
| 2021 | $ | 3,071 |
| 2022 | | 3,099 |
| 2023 | | 3,110 |
| 2024 | | 2,213 |
| 2025 | | 2,148 |
| 2026 and thereafter | | 19,327 |
| Total lease payments | | 32,968 |
| Less: Present value discount | | 10,782 |
| Operating lease liability (Note 8) | $ | 22,186 |

*Office Lease*

During the second quarter of 2021, the Company entered into an office lease in New York.

At December 31, 2021, the remaining lease term was 6.8 years for the New York office lease.

For the year ended December 31, 2021, the following table summarizes lease expense, included in administrative expense (dollars in thousands):

| | Year Ended December 31, 2021 | |
|---|---|---|
| | Corporate Office | |
| Operating lease expense: | | |
| Fixed lease expense | $ | 532 |
| | $ | 532 |

The operating lease liability for the office lease was determined using a weighted average discount rate of 2.36%. As of December 31, 2021, the Company's future operating lease commitments for the corporate office was as follows (dollars in thousands):

| | Corporate Offices | |
|---|---|---|
| 2022 | $ | 798 |
| 2023 | | 798 |
| 2024 | | 798 |
| 2025 | | 798 |
| 2026 | | 798 |
| 2027 and thereafter | | 1,397 |
| Total lease payments | | 5,387 |
| Less: Present value discount | $ | 412 |
| Operating lease liability (Note 8) | $ | 4,975 |

*Litigation and Claims*

The Company may be involved in litigation and claims in the ordinary course of the business. As of December 31, 2021, the Company was not involved in any legal proceedings that are expected to have a material adverse effect on the Company's results of operations, financial position or liquidity.

*Internalization*

During the second quarter of 2021, the Company finalized the internalization with its Manager. The Company entered into the Termination Agreement with its Manager pursuant to which the Management Agreement terminated effective April 30, 2021, and the Company will no longer pay base management fees or incentive fees with respect to any period thereafter and made a one-time cash payment of $102.3 million to the Manager.

*Employment contracts*

At March 31, 2021, the Company did not employ any personnel. Instead, the Company relied on the resources of its Manager and affiliates to conduct the Company's operations. On April 30, 2021, the Company entered into employment agreements with the Company's Chief Executive Officer and certain of the Company's senior management team, and in accordance with the terms of the Termination Agreement, the Company extended offers of employment to certain employees that had contributed substantially to the Company's investment, underwriting, portfolio and asset management, loan servicing, financial reporting, treasury, legal, tax, credit, risk and compliance responsibilities employment, which have been accepted.

**18. Segment Reporting**

From the third quarter of 2019 until the first quarter of 2021, the Company conducted its business through the following two portfolios and accompanying operating segments: the Core Portfolio, which consisted of the loan portfolio, CRE debt securities, net leased real estate and corporate; and the Legacy, Non-Strategic Portfolio segment, which consisted of direct investments in operating real estate, private equity investments, certain retail and other loans, as well as corporate-level asset management and other fees. During that period, the Company resolved 56 investments in the Legacy, Non-Strategic Portfolio and the remaining Legacy, Non-Strategic Portfolio net asset value represented less than 1% of the total net book value at the end of 2020. As such, the Company dissolved the separate segment reporting of the Legacy, Non-Strategic Portfolio segment as of the beginning of the first quarter of 2021.

During the first quarter of 2021, the Company realigned the business and reportable segment information to reflect how the CODM regularly review and manage the business. As a result, the Company presents its business as one portfolio and the following business segments:

- Senior and Mezzanine Loans and Preferred Equity—CRE debt investments including senior mortgage loans, mezzanine loans, and preferred equity interests as well as participations in such loans. The segment also includes ADC loan arrangements accounted for as equity method investments.
- Net Leased and Other Real Estate—direct investments in CRE with long-term leases to tenants on a net lease basis, where such tenants generally will be responsible for property operating expenses such as insurance, utilities, maintenance, capital expenditures and real estate taxes. It also includes other real estate, currently consisting of three investments with direct ownership in commercial real estate with an emphasis on properties with stable cash flow.
- CRE Debt Securities—investments currently consisting of BBB and some BB rated CMBS (including Non-Investment Grade "B-pieces" of a CMBS securitization pool), or CRE CLOs (including the junior tranches thereof, collateralized by pools of CRE debt investments). It also includes a sub-portfolio of private equity funds.
- Corporate—includes corporate-level asset management and other fees including expenses related to the Bank Credit Facility, related party and general and administrative expenses.

There were no changes in the structure of the Company's internal organization that prompted the change in reportable segments. Prior period amounts have been revised to conform to the current year presentation. Accordingly, the Company realigned the discussion and analysis of its portfolio and results of operations to reflect these reportable segments.

The Company primarily generates revenue from net interest income on the loan, preferred equity and securities portfolios, rental and other income from its net leased, hotel, multi-tenant office, and multifamily real estate assets, as well as equity in earnings of unconsolidated ventures. CRE debt securities include the Company's investment in the subordinate tranches of the securitization trusts which are eliminated in consolidation. The Company's income is primarily derived through the difference between revenue and the cost at which the Company is able to finance its investments. The Company may also acquire investments which generate attractive returns without any leverage.

The following tables present segment reporting for the years ended December 31, 2021, 2020 and 2019 (dollars in thousands):

| Year Ended December 31, 2021 | Senior and Mezzanine Loans and Preferred Equity | CRE Debt Securities | Net Leased and Other Real Estate | Corporate[(1)] | Total |
|---|---|---|---|---|---|
| Net interest income (expense) | $ 117,628 | $ 6,149 | $ — | $ (4,267) | $ 119,510 |
| Property and other income | 1,013 | 157 | 102,724 | 1,073 | 104,967 |
| Management fee expense | — | — | — | (9,596) | (9,596) |
| Property operating expense | — | — | (30,286) | — | (30,286) |
| Transaction, investment and servicing expense | (2,663) | (171) | (290) | (1,432) | (4,556) |
| Interest expense on real estate | — | — | (32,278) | — | (32,278) |
| Depreciation and amortization | — | — | (36,162) | (237) | (36,399) |
| Reversal of loan losses | 1,432 | — | — | — | 1,432 |
| Administrative expense | (650) | (1,336) | (133) | (47,892) | (50,011) |
| Restructuring charges | — | — | — | (109,321) | (109,321) |
| Unrealized gain on mortgage loans and obligations held in securitization trusts, net | — | 41,904 | — | — | 41,904 |
| Realized loss on mortgage loans and obligations held in securitization trusts, net | — | (36,623) | — | — | (36,623) |
| Other gain, net | 55,797 | 341 | 11,170 | 6,759 | 74,067 |
| **Income (loss) before equity in earnings of unconsolidated ventures and income taxes** | 172,557 | 10,421 | 14,745 | (164,913) | 32,810 |
| Equity in earnings (loss) of unconsolidated ventures | (130,895) | (220) | — | — | (131,115) |
| Income tax benefit (expense) | (6,148) | (194) | 66 | — | (6,276) |
| **Net income (loss)** | $ 35,514 | $ 10,007 | $ 14,811 | $ (164,913) | $ (104,581) |

| Year Ended December 31, 2020 | Senior and Mezzanine Loans and Preferred Equity | CRE Debt Securities | Net Leased and Other Real Estate | Corporate[(1)] | Total |
|---|---|---|---|---|---|
| Net interest income (expense) | $ 100,591 | $ 10,488 | $ 15 | $ (8,777) | $ 102,317 |
| Property and other income | 108 | 374 | 175,994 | 397 | 176,873 |
| Management fee expense | — | — | — | (29,739) | (29,739) |
| Property operating expense | — | — | (64,987) | — | (64,987) |
| Transaction, investment and servicing expense | (3,738) | (376) | (781) | (5,080) | (9,975) |
| Interest expense on real estate | — | — | (48,860) | — | (48,860) |
| Depreciation and amortization | — | — | (59,766) | — | (59,766) |
| Provision for loan losses | (78,561) | — | — | — | (78,561) |
| Impairment of operating real estate | — | — | (42,814) | — | (42,814) |
| Administrative expense | (894) | (1,547) | (380) | (23,730) | (26,551) |
| Unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net | — | (52,086) | — | 1,565 | (50,521) |
| Other gain (loss), net | (36,971) | (91,817) | 10,163 | (100) | (118,725) |
| **Income (loss) before equity in earnings of unconsolidated ventures and income taxes** | (19,465) | (134,964) | (31,416) | (65,464) | (251,309) |
| Equity in earnings (loss) of unconsolidated ventures | (136,386) | 1,213 | — | — | (135,173) |
| Income tax benefit (expense) | (587) | 10,187 | 1,298 | — | 10,898 |
| **Net income (loss)** | $ (156,438) | $ (123,564) | $ (30,118) | $ (65,464) | $ (375,584) |

(1) Includes losses incurred from the CRE securities purchased at a discount, recognized using the effective interest method had the transaction been recorded as an available for sale security, at amortized cost. During the year ended December 31, 2020, $1.6 million was attributable to discount accretion income and was eliminated in consolidation in the corporate segment. The corresponding interest expense is recorded in net interest income in the Corporate column.

**BRIGHTSPIRE CAPITAL, INC.**
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

| Year Ended December 31, 2019 | Senior and Mezzanine Loans and Preferred Equity | CRE Debt Securities | Net Leased Real Estate | Corporate[1] | Total |
|---|---|---|---|---|---|
| Net interest income (expense) | $ 92,057 | $ 20,967 | $ (696) | $ (14,650) | $ 97,678 |
| Property and other income | 744 | 429 | 254,611 | 504 | 256,288 |
| Management fee expense | — | — | — | (42,390) | (42,390) |
| Property operating expense | — | — | (112,801) | — | (112,801) |
| Transaction, investment and servicing expense | (3,320) | (329) | (2,091) | (1,451) | (7,191) |
| Interest expense on real estate | — | — | (55,415) | — | (55,415) |
| Depreciation and amortization | — | — | (103,220) | — | (103,220) |
| Provision for loan losses | (220,572) | — | — | — | (220,572) |
| Impairment of operating real estate | — | — | (282,749) | — | (282,749) |
| Administrative expense | (1,188) | (1,214) | (474) | (29,060) | (31,936) |
| Unrealized gain (loss) on mortgage loans and obligations held in securitization trusts, net | — | 5,126 | — | (1,036) | 4,090 |
| Realized gain on mortgage loans and obligations held in securitization trusts, net | — | 48 | — | 2,724 | 2,772 |
| Other gain (loss), net | 20 | (12,184) | 11,192 | — | (972) |
| **Income (loss) before equity in earnings of unconsolidated ventures and income taxes** | (132,259) | 12,843 | (291,643) | (85,359) | (496,418) |
| Equity in earnings (losses) of unconsolidated ventures | 37,247 | (305) | — | — | 36,942 |
| Income tax benefit (expense) | 152 | (2,061) | (881) | (382) | (3,172) |
| **Net income (loss)** | $ (94,860) | $ 10,477 | $ (292,524) | $ (85,741) | $ (462,648) |

(1) Includes income earned from the CRE securities purchased at a discount, recognized using the effective interest method had the transaction been recorded as an available for sale security, at amortized cost. During the year ended December 31, 2019, $1.7 million was attributable to discount accretion income and was eliminated in consolidation in the corporate segment. The corresponding interest expense is recorded in net interest income in the Corporate column.

The following table presents total assets by segment as of December 31, 2021 and December 31, 2020 (dollars in thousands):

| Total Assets | Senior and Mezzanine Loans and Preferred Equity[1] | CRE Debt Securities[2] | Net Leased and Other Real Estate | Corporate[3] | Total |
|---|---|---|---|---|---|
| December 31, 2021 | $ 3,589,325 | $ 840,215 | $ 963,369 | $ 245,460 | $ 5,638,369 |
| December 31, 2020 | 1,929,937 | 1,720,624 | 1,261,137 | 1,300,239 | 6,211,937 |

(1) Includes investments in unconsolidated ventures totaling $16.2 million and $366.5 million as of December 31, 2021 and December 31, 2020, respectively.
(2) Includes PE Investments totaling $4.4 million and $6.9 million as of December 31, 2021 and December 31, 2020, respectively.
(3) Includes cash, unallocated receivables, deferred costs and other assets, net and the elimination of the subordinate tranches of the securitization trusts in consolidation.

*Geography*

Geography is generally defined as the location in which the income producing assets reside or the location in which income generating services are performed. Geography information on total income includes equity in earnings of unconsolidated ventures. Geography information on total income and long lived assets are presented as follows (dollars in thousands):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Total income by geography:** | | | |
| United States | $ 201,344 | $ 318,886 | $ 539,094 |
| Europe | (7,038) | (27,874) | 49,476 |
| Other | — | — | 32 |
| Total[(1)] | $ 194,306 | $ 291,012 | $ 588,602 |

| | December 31, 2021 | December 31, 2020 |
|---|---|---|
| **Long-lived assets by geography:** | | |
| United States | $ 553,368 | $ 600,767 |
| Europe | 294,824 | 314,190 |
| Total[(2)] | $ 848,192 | $ 914,957 |

(1) Includes interest income, interest income on mortgage loans held in securitization trusts, property and other income and equity in earnings of unconsolidated ventures.
(2) Long-lived assets are comprised of real estate and real estate related intangible assets, and excludes financial instruments and assets held for sale.

## 19. Earnings Per Share

The Company's net income (loss) and weighted average shares outstanding for the years ended December 31, 2021, 2020 and 2019 consist of the following (dollars in thousands, except per share data):

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| **Net loss** | $ (104,581) | $ (375,584) | $ (462,648) |
| Net loss attributable to noncontrolling interests: | | | |
| Investment Entities | 1,732 | 13,924 | 38,208 |
| Operating Partnership | 1,803 | 8,361 | 9,928 |
| Net loss attributable to BrightSpire Capital, Inc. common stockholders | $ (101,046) | $ (353,299) | $ (414,512) |
| **Numerator:** | | | |
| Net loss allocated to participating securities (non-vested shares) | $ — | $ (322) | $ (2,187) |
| Net loss attributable to common stockholders | $ (101,046) | $ (353,621) | $ (416,699) |
| **Denominator:** | | | |
| Weighted average shares outstanding[(1)] | 128,496 | 128,548 | 128,391 |
| **Net loss per common share - basic and diluted** | $ (0.79) | $ (2.75) | $ (3.25) |

(1) The outstanding shares used to calculate the weighted average basic shares outstanding exclude 1,482,094 and 885,070 restricted stock awards as of December 31, 2021 and 2020 net of forfeitures, respectively, as those shares were issued but were not vested and therefore, not considered outstanding for purposes of computing basic income (loss) per common share.

## 20. Restructuring Charges

In April 2021, the Company entered into the Termination Agreement with its Manager pursuant to which the Company internalized its management function and made a one-time cash payment of $102.3 million to the Manager. The Company will no longer pay base management fees or incentive fees with respect to any period after April 30, 2021. The Company incurred $109.3 million of restructuring costs for the year ended December 31, 2021, which were paid by the Company in the second quarter of 2021. The additional restructuring costs of $7.0 million consist primarily of fees paid for legal and investment banking advisory services. Refer to Note 1, "Business and Organization," for further detail.

## 21. Subsequent Events

*Dividends*

In January 2022, the Company paid a quarterly cash dividend of $0.18 per share of Class A common stock for the quarter ending December 31, 2021, to stockholders of record on December 31, 2021.

*Loan Originations*

Subsequent to December 31, 2021, the Company funded six senior mortgage loans with a total commitment of $274.9 million. The average initial funded amount was $39.9 million and had a weighted average spread of 3.55% plus SOFR. The Company also funded one mezzanine loan with a total commitment of $28.2 million and an initial funded amount of $7.4 million. The mezzanine loan has a fixed interest rate of 12.00%.

*Loan Repayments*

In January 2022, the Company received a $36.7 million repayment on one senior loan collateralized by a student housing property, which was approximately $1.3 million less than the unpaid principal balance. During the fourth quarter of 2021, the Company recorded a $1.3 million provision for loan losses on the loan based on the expected repayment projections.

*Investment Sales*

In January 2022, the Company sold one net leased real estate property for total gross proceeds of $19.6 million. In connection with the sale, the Company repaid $11.9 million of financing and incurred $1.0 million of selling costs. The Company received $6.7 million of net proceeds and will recognize a net gain of approximately $5.7 million.

*Master Repurchase Facilities*

In January 2022, the Company amended five of its Master Repurchase Facilities to reduce the minimum tangible net worth covenant requirement from $1.35 billion to $1.11 billion. Additionally, the Company amended four of its Master Repurchase Facilities to expand the eligibility criteria to allow for loans indexed to SOFR, and to allow for borrowings under those facilities indexed to SOFR. Refer to Note 9, "Debt" for further discussion.

*Bank Credit Facility*

In January 2022, the Company amended its Bank Credit Facility to reduce the aggregate amount of lender commitments from $300 million to $165 million. Refer to Note 9, "Debt" for further discussion.

## BRIGHTSPIRE CAPITAL, INC. AND SUBSIDIARIES
## SCHEDULE III - REAL ESTATE AND ACCUMULATED DEPRECIATION

### December 31, 2021

### (Dollars in Thousands)

| | | | Initial Cost | | | Gross Amount Carried at December 31, 2021 [1] | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Property Description / Location | Number of Properties | Encumbrances | Land | Building and Improvements | Costs Capitalized Subsequent to Acquisition [1][2] | Land | Building and Improvements | Total | Accumulated Depreciation [3] | Total | Date of Acquisition [4] | Life on Which Depreciation is Computed |
| Industrial-Arizona | 1 | $ 77,864 | $ 14,494 | $ 59,991 | $ 78 | $ 14,494 | $ 60,069 | $ 74,563 | $ 6,444 | $ 68,119 | 2018 | 31 years |
| Industrial-California | 1 | 122,136 | 32,552 | 148,911 | 79 | 32,552 | 148,990 | 181,542 | 17,041 | 164,501 | 2018 | 28 years |
| Office-Colorado | 1 | 30,639 | 2,359 | 41,410 | 6,906 | 2,359 | 48,316 | 50,675 | 7,737 | 42,938 | 2017 | 40 years |
| Office-Indiana | 1 | 23,117 | 3,773 | 26,916 | 5,188 | 3,772 | 32,104 | 35,876 | 5,278 | 30,598 | 2017 | 40 years |
| Office-Missouri | 1 | 105,090 | 22,079 | 131,292 | (43,421) | 14,725 | 95,225 | 109,950 | 17,108 | 92,842 | 2018 | 39 years |
| Office-Norway | 1 | 181,504 | 55,054 | 277,439 | (26,604) | 54,214 | 251,676 | 305,890 | 27,546 | 278,344 | 2018 | 37 years |
| Office-Pennsylvania | 1 | 72,359 | 12,480 | 130,942 | (53,712) | 7,675 | 82,035 | 89,710 | 12,354 | 77,356 | 2018 | 40 years |
| Retail-Illinois | 1 | 4,201 | — | 7,338 | (3,578) | — | 3,760 | 3,760 | 724 | 3,036 | 2017 | 40 years |
| Retail-Indiana | 1 | 3,282 | — | 5,171 | (1,769) | — | 3,402 | 3,402 | 564 | 2,838 | 2017 | 40 years |
| Retail-Kansas | 1 | 5,219 | 1,048 | 7,023 | (3,770) | 535 | 3,766 | 4,301 | 803 | 3,498 | 2017 | 40 years |
| Retail-Maine | 1 | 908 | — | 6,317 | (3,953) | — | 2,364 | 2,364 | 580 | 1,784 | 2017 | 40 years |
| Retail-Massachusetts | 2 | 8,005 | — | 12,254 | (5,939) | — | 6,315 | 6,315 | 1,232 | 5,083 | 2017 | 40 years |
| Retail-New Hampshire | 2 | 15,484 | 1,495 | 21,488 | (11,097) | 915 | 10,971 | 11,886 | 2,280 | 9,606 | 2017 | 40 years |
| Retail-New York | 1 | 3,764 | — | 6,372 | (3,074) | — | 3,298 | 3,298 | 630 | 2,668 | 2017 | 40 years |
| Total operating real estate, net | 16 | $ 653,572 | $ 145,334 | $ 882,864 | $ (144,666) | $ 131,241 | $ 752,291 | $ 883,532 | $ 100,321 | $ 783,211 | | |

(1) The aggregate gross cost of total real estate assets for federal income tax purposes is $1.1 billion as of December 31, 2021.
(2) Gross amount carried is shown net of impairment and net of the effect of changes in foreign exchange rates.
(3) Depreciation is calculated using a useful life of 1 to 40 years for buildings and improvements.
(4) Properties consolidated upon the Combination reflect an acquisition date of February 1, 2018, the effective date of consolidation.

**BRIGHTSPIRE CAPITAL, INC. AND SUBSIDIARIES**
**SCHEDULE III - REAL ESTATE AND ACCUMULATED DEPRECIATION (CONTINUED)**

**December 31, 2021**

**(Dollars in Thousands)**

Changes in the Company's operating real estate portfolio gross of accumulated depreciation for the years ended December 31, 2021, 2020 and 2019 are as follows:

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| Balance at January 1 | $ 921,413 | $ 1,594,870 | $ 2,017,252 |
| Real estate acquired in the Combination | — | — | — |
| Property acquisitions[(1)] | — | — | 120,139 |
| Improvements and capitalized costs | 2,691 | 7,701 | 23,406 |
| Impairment | — | — | (265,312) |
| Dispositions | — | (368,065) | (103,242) |
| Effect of changes in foreign exchange rates | (9,516) | 8,765 | (3,991) |
| Balance at December 31 | $ 914,588 | $ 1,243,271 | $ 1,788,252 |
| Classified as held for investment, net[(2)] | — | 31,056 | — |
| Classified as held for sale, net[(3)] | (31,056) | (352,914) | (193,382) |
| Balance at December 31, held for investment | $ 883,532 | $ 921,413 | $ 1,594,870 |

(1) Includes REO foreclosures of $120.1 million for the fiscal year ended 2019
(2) Represents one property classified as held for sale at December 31, 2019 and transferred to held for investment, net during the year ended December 31, 2020.
(3) Amounts classified as held for sale during the year and remain as held for sale at the end of the year.

Changes in accumulated depreciation for the years ended December 31, 2021, 2020 and 2019 are as follows:

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2021 | 2020 | 2019 |
| Balance at January 1 | $ 82,156 | $ 110,074 | $ 57,562 |
| Depreciation expense | 25,761 | 41,691 | 72,926 |
| Dispositions | — | (34,090) | (5,368) |
| Effect of changes in foreign exchange rates | (1,224) | 873 | (228) |
| Balance at December 31 | $ 106,693 | $ 118,548 | $ 124,892 |
| Classified as held for investment[(1)] | — | 2,608 | — |
| Classified as held for sale[(2)] | (6,372) | (39,000) | (14,818) |
| Balance at December 31, held for investment | $ 100,321 | $ 82,156 | $ 110,074 |

(1) Amounts classified as held for investment during the year and remain as held for investment at the end of the year.
(2) Amounts classified as held for sale during the year and remain as held for sale at the end of the year.

# BRIGHTSPIRE CAPITAL, INC. AND SUBSIDIARIES
# SCHEDULE IV - MORTGAGE LOANS ON REAL ESTATE

## December 31, 2021

## (Dollars in Thousands)

| Loan Type / Collateral / Location [1] | Number of Loans | Interest Rate Range [2] | Maturity Date Range [3] | Periodic Payment Terms [4] | Prior Liens [5] | Unpaid Principal Amount | Carrying Value [6][7] | Principal Amount Subject to Delinquent Principal or Interest [8] |
|---|---|---|---|---|---|---|---|---|
| **First mortgage:** | | | | | | | | |
| Hotel-California, USA | 1 | 5.25% | November 2024 | I/O | $ — | $ 184,953 | $ 184,953 | $ — |
| Hotel-California, USA | 1 | 5.00% | July 2023 | I/O | — | 120,000 | 119,608 | — |
| Office-California, USA | 1 | 4.40% | December 2022 | I/O | — | 120,000 | 120,000 | — |
| Office-Connecticut, USA | 1 | 5.65% | June 2023 | I/O | — | 120,105 | 119,583 | — |
| Office-Various, USA | 28 | 3.40% - 5.90% | February 2022 to December 2024 | Both | — | 1,001,238 | 996,651 | — |
| Multifamily-California, USA | 1 | 6.80% | June 2022 | I/O | — | 106,691 | 106,679 | — |
| Multifamily-California, USA | 1 | 5.35% | July 2022 | I/O | — | 183,501 | 183,713 | — |
| Multifamily -Various, USA | 55 | 3.00% - 5.50% | February 2022 to January 2025 | I/O | — | 1,454,381 | 1,444,642 | — |
| Hotel-Various, USA - First mortgage | 2 | 4.75% - 5.00% | February 2022 - February 2024 | Both | — | 92,153 | 92,153 | — |
| | 91 | | | | — | 3,383,022 | 3,367,982 | — |
| **Subordinated mortgage and mezzanine:** | | | | | | | | |
| Hotel-Various, USA | 2 | 11.50%- 11.50% | March 2022 - July 2023 | Both | 179,490 | 41,040 | 41,160 | — |
| Multifamily -Various, USA | 3 | 9.45% - 13.00% | July 2022 - August 2024 | Both | 117,922 | 76,596 | 76,465 | — |
| | 5 | | | | 297,412 | 117,636 | 117,625 | — |
| Total Loans Gross | 96 | | | | $ 297,412 | $ 3,500,658 | $ 3,485,607 | $ — |
| Allowance for Loan Losses | | | | | | | (36,598) | |
| Carrying value, net | | | | | | | $ 3,449,009 | |

(1) Loans with carrying values that are individually less than 3% of the total carrying value have been aggregated according to collateral type and location.
(2) Variable rate loans are determined based on the applicable index in effect as of December 31, 2021.
(3) Represents contractual maturity that does not contemplate exercise of extension option.
(4) Payment terms: P&I = Periodic payment of principal and interest; I/O = Periodic payment of interest only with principal at maturity.
(5) Prior liens represent loan amounts owned by third parties that are senior to the Company’s mezzanine or preferred equity positions and are approximate.
(6) Carrying amounts as of December 31, 2021 are presented gross of the Company’s allowance for loan losses of $36.6 million.
(7) The aggregate cost of loans and preferred equity held for investment is approximately $3.5 billion for federal tax purposes as of December 31, 2021.
(8) Represents principal balance of loans which are 90 days or more past due as to principal or interest.

**BRIGHTSPIRE CAPITAL, INC. AND SUBSIDIARIES**
**SCHEDULE IV - MORTGAGE LOANS ON REAL ESTATE (CONTINUED)**

**December 31, 2021**

**(Dollars in Thousands)**

Activity in mortgage loans on real estate is summarized below:

| | Year Ended December 31, | | |
|---|---|---|---|
| | **2021** | **2020** | **2019** |
| **Balance at January 1** | $ 2,183,497 | $ 2,563,884 | $ 2,005,497 |
| Acquisitions/originations/additional funding[1] | 1,758,090 | 296,648 | 1,337,583 |
| Loan maturities/principal repayments[2] | (501,007) | (463,729) | (444,736) |
| Foreclosure of loans held for investment | — | — | (174,048) |
| Discount accretion/premium amortization | 6,706 | 7,668 | 6,293 |
| Capitalized interest | 1,130 | (1,049) | 12,190 |
| Provision for loan losses | 593 | (85,744) | (220,572) |
| Charge-off | — | 41,036 | 46,693 |
| Effect of CECL adoption | — | (20,847) | — |
| Transfer to loans held for sale | — | (154,370) | (5,016) |
| **Balance at December 31** | $ 3,449,009 | $ 2,183,497 | $ 2,563,884 |

(1) Excludes origination of a corporate term loan with an unpaid principal amount of $12.6 million and carrying value of $12.4 million as of December 31, 2019, that is not related to real estate.
(2) Excludes repayment of a senior loan during the year ended December 31, 2019 with a principal amount of $12.6 million and carrying value of $12.4 million that is not related to real estate.

**Item 16. Form 10-K Summary**

Omitted at Registrant’s option.

# EXHIBIT INDEX

| Exhibit Number | Description of Exhibit |
|---|---|
| 2.1 | Amended and Restated Master Combination Agreement, dated as of November 20, 2017, among Colony Capital Operating Company, LLC, NRF RED REIT Corp., NorthStar Real Estate Income Trust, Inc., NorthStar Real Estate Income Trust Operating Partnership, LP, NorthStar Real Estate Income II, Inc., NorthStar Real Estate Income Operating Partnership II, LP, Colony NorthStar Credit Real Estate, Inc. and Credit RE Operating Company, LLC (incorporated by reference to Exhibit 2.1 to the Company's Registration Statement on Form S-4 (No. 333-221685) effective December 6, 2017) |
| 3.1 | Articles of Amendment and Restatement of BrightSpire Capital, Inc., dated as of June 23, 2021 (incorporated by reference to Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) for the quarter ended June 30, 2021 filed on August 5, 2021) |
| 3.2 | Fourth Amended and Restated Bylaws of BrightSpire Capital, Inc. (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on June 24, 2021) |
| 4.1* | Description of the Registrant's Securities |
| 10.1 | Second Amended and Restated Limited Liability Company Agreement of BrightSpire Capital Operating Company, LLC dated as of June 24, 2021 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on June 24, 2021) |
| 10.2 | Amended and Restated Stockholders Agreement, dated April 30, 2021, by and between Colony Credit Real Estate, Inc. and Capital Operating Company, LLC (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on May 3, 2021) |
| 10.3 | Registration Rights Agreement, dated as of January 31, 2018, by and among Colony NorthStar Credit Real Estate, Inc., Colony Capital Operating Company, LLC and NRF RED REIT Corp. (incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K (No. 001-38377) filed on February 1, 2018) |
| 10.4 | Credit Agreement, dated as of February 1, 2018, by and among Credit RE Operating Company, LLC, the other Subsidiary Borrowers from time to time parties thereto, the Several Lenders from time to time parties thereto and JPMorgan Chase Bank, N.A. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on February 1, 2018) |
| 10.5 | First Amendment, dated as of November 19, 2018, to the Credit Agreement dated as of February 1, 2018 by and among Credit RE Operating Company LLC, the Subsidiary Borrowers from time to time parties thereto, the several Lenders from time to time parties thereto and JPMorgan Chase Bank, N.A. (incorporated by reference to Exhibit 10.3 to the Company's Annual Report on Form 10-K (No. 001-38377) filed on March 01, 2019) |
| 10.6 | Second Amendment, dated as of December 17, 2018, to the Credit Agreement dated as of February 1, 2018 by and among Credit RE Operating Company LLC, the Subsidiary Borrowers from time to time parties thereto, the several Lenders from time to time parties thereto and JPMorgan Chase Bank, N.A. (incorporated by reference to Exhibit 10.4 to the Company's Annual Report on Form 10-K (No. 001-38377) filed on March 01, 2019) |
| 10.7 | Third Amendment and Waiver, dated as of May 6, 2020, to Credit Agreement, dated as of February 1, 2018, among Credit RE Operating Company, LLC, the several lenders from time to time parties thereto and JPMorgan Chase Bank, N.A., as administrative agent (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on May 8, 2020 |
| 10.8 | Fourth Amendment dated as of April 5, 2021, among Credit RE Operating Company, LLC, the several lenders from time to time parties thereto and JP Morgan Chase Bank, N.A., as administrative agent (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 7, 2021) |
| 10.9 | Amended and Restated Credit Agreement, dated as of January 28, 2022, by and among BrightSpire Capital Operating Company, LLC, as a borrower, the several lenders from time to time parties thereto and JPMorgan Chase Bank, N.A., as administrative agent (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No.001-38377) filed on January 31, 2022) |
| 10.10† | Form of Indemnification Agreement, between Colony NorthStar Credit Real Estate, Inc. and the Officers and Directors of the Company (incorporated by reference to Exhibit 10.6 to the Company's Current Report on Form 8-K (No. 001-38377) filed on February 1, 2018) |
| 10.11† | Colony NorthStar Credit Real Estate, Inc. 2018 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Registration Statement on Form S-8 (No. 333-222812) filed on February 1, 2018) |
| 10.12† | Form of Restricted Stock Agreement to the 2018 Equity Incentive Plan (incorporated by reference to Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q filed on May 15, 2018) |
| 10.13 | Master Repurchase Agreement, dated as of April 26, 2018, by and among Barclays Bank PLC, CLNC Credit 7, LLC and the other sellers from time to time party thereto (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on May 2, 2018) |
| 10.14 | First Amendment to Master Repurchase Agreement, dated as of January 22, 2021, by and among Barclays Bank PLC, CLNC Credit 7, LLC and the other sellers from time to time party thereto (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on January 25, 2021) |
| 10.15* | Second Amendment to Master Repurchase Agreement, dated as of February 8, 2022, by and between Barclays Bank PLC, and BrightSpire Credit 7, LLC |
| 10.16 | Guaranty, made as of April 26, 2018, by Credit RE Operating Company, LLC for the benefit of Barclays Bank PLC (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on May 2, 2018) |

| Exhibit Number | Description of Exhibit |
|---|---|
| 10.17 | Amendment to Guaranty, dated as of May 7, 2020, by Credit RE Operating Company, LLC for the benefit of Barclays Bank PLC (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on May 8, 2020) |
| 10.18 | Second Amendment to Guaranty, dated as of April 14, 2021, by Credit RE Operating Company, LLC for the benefit of Barclays Bank PLC (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021) |
| 10.19* | Third Amendment to Guaranty, dated as of January 28, 2022, by and between BrightSpire Capital Operating Company, LLC, and Barclays Bank PLC |
| 10.20 | Master Repurchase Agreement, dated as of June 19, 2018, by and between CLNC Credit 6, LLC and Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on June 25, 2018) |
| 10.21 | First Amendment to Master Repurchase Agreement, dated as of June 16, 2020, by and between CLNC Credit 6, LLC and Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (No. 001-38377) filed on June 19, 2020) |
| 10.22 | Second Amendment to Master Repurchase Agreement and other Transaction Documents, dated as of April 14, 2021, by and between CLNC Credit 6, LLC, Credit RE Operating Company, LLC and Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021)** |
| 10.23 | Guaranty, dated as of June 19, 2018, by Credit RE Operating Company, LLC, for the benefit of Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on June 25, 2018) |
| 10.24 | Amendment to Guaranty, dated as of May 7, 2020, by Credit RE Operating Company, LLC for the benefit of Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on May 8, 2020) |
| 10.25 | Second Amendment to Guaranty, dated as of April 14, 2021, by Credit RE Operating Company, LLC for the benefit of Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.6 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021) |
| 10.26* | Third Amendment to Guaranty, dated as of January 28, 2022, by and between BrightSpire Capital Operating Company, LLC, and Goldman Sachs Bank USA |
| 10.27 | Reaffirmation of Guarantor, dated as of June 16, 2020, by Credit RE Operating Company, LLC, for the benefit of Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.2 to the Company's Form 8-K (No. 001-38377) filed on June 19, 2020) |
| 10.28 | Reaffirmation of Guarantor, dated as of April 14, 2021, by Credit RE Operating Company, LLC, for the benefit of Goldman Sachs Bank USA (incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021) |
| 10.29 | Master Repurchase and Securities Contract, dated as of November 2, 2018, by and between CLNC Credit 8, LLC and Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on November 7, 2018) |
| 10.30 | Amendment No. 1 to Master Repurchase and Securities Contract, dated as of November 1, 2019, by and between CLNC Credit 8, LLC and Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q (No.001-38377) filed on May 6, 2021) |
| 10.31 | Amendment No. 2 to Master Repurchase and Securities Contract, dated as of May 4, 2021, by and between CLNC Credit 8, LLC and Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q (No. 001-38377 filed on May 6, 2021) |
| 10.32* | Amendment No. 3 to Master Repurchase and Securities Contract, dated as of February 17, 2022, by and between BrightSpire Credit 8, LLC (f/k/a CLNC Credit 8, LLC) and Wells Fargo Bank, National Association |
| 10.33 | Guarantee Agreement, dated as of November 2, 2018, by Credit RE Operating Company, LLC for the benefit of Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.2 to the Company's Form 8-K (No. 001-38377) filed on November 7, 2018) |
| 10.34 | Amendment to Guarantee Agreement, dated as of May 7, 2020, by Credit RE Operating Company, LLC for the benefit of Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on May 8, 2020) |
| 10.35 | Second Amendment to Guarantee, dated as of April 13, 2021, by Credit RE Operating Company, LLC for the benefit of Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.8 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021) |
| 10.36* | Third Amendment to Guarantee, dated as of January 28, 2022, by and between BrightSpire Capital Operating Company, LLC and Wells Fargo Bank, National Association |
| 10.37 | Second Amended and Restated Master Repurchase and Securities Contract Agreement, dated as of April 23, 2019, by and among MS Loan NT-I, LLC, MS Loan NT-II, LLC, CLNC Credit 1, LLC, CLNC Credit 2, LLC, CLNC Credit 1EU, LLC, CLNC Credit 1UK, LLC and Morgan Stanley Bank, N.A. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 26, 2019) |

| Exhibit Number | Description of Exhibit |
|---|---|
| 10.38 | First Omnibus Amendment, dated as of February 14, 2020, to the Second Amended and Restated Master Repurchase and Securities Contract Agreement, dated as of April 23, 2019, by and among MS Loan NT-I, LLC, MS Loan NT-II, LLC, CLNC Credit 1, LLC, CLNC Credit 2, LLC, CLNC Credit 1EU, LLC, CLNC Credit 1UK, LLC and Morgan Stanley Bank, N.A. (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on May 8, 2020) |
| 10.39 | Amended and Restated Guaranty Agreement, made as of April 20, 2018, by Credit RE Operating Company, LLC in favor of Morgan Stanley Bank, N.A. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 25, 2018) |
| 10.40 | Ratification, Reaffirmation and Confirmation of Transaction Documents, dated as of April 23, 2019, by and among MS Loan NT-I, LLC, MS Loan NT-II, LLC, CLNC Credit 1, LLC, CLNC Credit 2, LLC, CLNC Credit 1EU, LLC, CLNC Credit 1UK, LLC, Credit RE Operating Company, LLC and Morgan Stanley Bank, N.A. (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 26, 2019) |
| 10.41 | Third Omnibus Amendment to Transaction Documents, dated as of May 7, 2020, by and between Credit RE Operating Company, LLC and Morgan Stanley Bank, N.A. (incorporated by reference to Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on May 8, 2020) |
| 10.42 | Fourth Omnibus Amendment to Transaction Documents, dated as of February 22, 2021, by and between MS Loan NT-I, LLC, MS Loan NT-II, LLC, CLNC Credit 1, LLC, CLNC Credit 2, LLC, CLNC Credit 1EU, LLC and CLNC Credit 1UK, LLC, Credit RE Operating Company, LLC and Morgan Stanley Bank, N.A (incorporated by reference to Exhibit 10.47 to the Company's Form 10-K (001-38377) filed on February 25, 2021) |
| 10.43 | Fifth Omnibus Amendment, dated as of April 14, 2021, by and among MS Loan NT-I, LLC, MS Loan NT-II, LLC, CLNC Credit 1, LLC, CLNC Credit 2, LLC, CLNC Credit 1EU, LLC, CLNC Credit 1UK, LLC, Credit RE Operating Company, LLC and Morgan Stanley Bank, N.A. (incorporated by reference to Exhibit 10.9 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021) |
| 10.44 | Sixth Omnibus Amendment, dated as of April 20, 2021, by and among MS Loan NT-I, LLC, MS Loan NT-II, LLC, CLNC Credit 1, LLC, CLNC Credit 2, LLC, CLNC Credit 1EU, LLC, CLNC Credit 1UK, LLC, Credit RE Operating Company, LLC and Morgan Stanley Bank, N.A. (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q (No.001-38377) filed on May 6, 2021)** |
| 10.45* | Sixth Omnibus Amendment to Transaction Documents, dated as of January 24, 2022, by and between BrightSpire Capital Operating Company, LLC and Morgan Stanley, N.A. |
| 10.46* | Seventh Omnibus Amendment to Transaction Documents, dated as of January 28, 2022, by and between BrightSpire Capital Operating Company, LLC and Morgan Stanley Bank, N.A. |
| 10.47 | Amended and Restated Master Repurchase Agreement, dated as of April 26, 2019, by and among NSREIT CB Loan, LLC, CB Loan NT-II, LLC, CLNC Credit 3, LLC, CLNC Credit 4, LLC, CLNC Credit 3EU, LLC, CLNC Credit 3UK, LLC and Citibank, N.A. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on May 1, 2019) |
| 10.48 | First Amendment to Amended and Restated Master Repurchase Agreement, dated as of April 14, 2021, by and among NSREIT CB Loan, LLC, CB Loan NT-II, LLC, CLNC Credit 3, LLC, CLNC Credit 4, LLC, CLNC Credit 3EU, LLC, CLNC Credit 3UK, LLC, Credit RE Operating Company, LLC and Citibank, N.A. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021) |
| 10.49 | Second Amendment to Amended and Restated Master Repurchase Agreement, dated as of August 24, 2021, by and among NSREIT CB Loan, LLC, CB Loan NT-II, LLC, BrightSpire Credit 3, LLC, BrightSpire Credit 4, LLC, BrightSpire Credit 3EU, LLC and BrightSpire Credit 3UK, LLC, BrightSpire Capital Operating Company, LLC and Citibank, N.A. (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on November 3, 2021) |
| 10.50 | Guaranty, made as of April 23, 2018, by Credit RE Operating Company, LLC for the benefit of Citibank, N.A. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 25, 2018) |
| 10.51 | Omnibus Amendment to Other Transaction Documents and Reaffirmation of Guaranty, dated as of April 26, 2019, by and among NSREIT CB Loan, LLC, CB Loan NT-II, LLC, CLNC Credit 3, LLC, CLNC Credit 4, LLC, CLNC Credit 3EU, LLC, CLNC Credit 3UK, LLC, Credit RE Operating Company, LLC and Citibank, N.A. (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K (No. 001-38377) filed on May 1, 2019) |
| 10.52 | First Amendment to Guaranty, dated as of May 7, 2020, by Credit RE Operating Company, LLC for the benefit of Citibank, N.A. (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on May 8, 2020) |
| 10.53 | Second Amendment to Guaranty, dated as of April 14, 2021, by Credit RE Operating Company, LLC for the benefit of Citibank, N.A. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 19, 2021) |
| 10.54* | Third Amendment to Guaranty, dated as of January 28, 2022, by and between BrightSpire Capital Operating Company, LLC, and Citibank, N.A. |
| 10.55 | Indenture, dated as of October 22, 2019, by and among CLNC 2019-FL1, Ltd., as Issuer, CLNC 2019-FL1, LLC, as Co-Issuer, CLNC Advancing Agent, LLC, as Advancing Agent, U.S. Bank National Association, as Trustee, Note Administrator and Custodian (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (No. 001-38377) filed on October 25, 2019) |

| Exhibit Number | Description of Exhibit |
|---|---|
| 10.56 | Indenture, dated as of July 20, 2021, by and among BRSP 2021-FL1, Ltd., as Issuer, BRSP 2021-FL1, LLC, as Co-Issuer, BrightSpire Capital Advancing Agent, LLC (f/k/a CLNC Advancing Agent, LLC), as Advancing Agent, Wilmington Trust, National Association, as Trustee, and Wells Fargo Bank, National Association, as Note Administrator and as Custodian (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on July 26, 2021) |
| 10.57† | Amended and Restated Management Agreement, dated as of November 6, 2019, by and among Colony Credit Real Estate, Inc., Credit RE Operating Company, LLC and CLNC Manager, LLC (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q (No. 001-38377) filed on November 08, 2019) |
| 10.58 | Termination Agreement, dated April 4, 2021, by and among Colony Credit Real Estate, Inc., Credit RE Operating Company, LLC, CLNC Manager, LLC, and solely for the purposes of Section 8.15 thereof, Colony Capital Investment Advisors, LLC (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K (No. 001-38377) filed on April 5, 2021) |
| 10.59† | Employment Agreement by and between Michael Mazzei and CLNC US, LLC, as amended April 30, 2021 (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K (No. 001-38377) filed on May 3, 2021) |
| 10.60† | Form of Executive Employment Letter (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K (No. 001-38377) filed on May 3, 2021) |
| 21.1* | List of Significant Subsidiaries of BrightSpire Capital, Inc. |
| 23.1* | Consent of Ernst & Young LLP |
| 31.1* | Certification by the Chief Executive Officer pursuant to 17 CFR 240.13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 |
| 31.2* | Certification by the Chief Financial Officer pursuant to 17 CFR 240.13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 |
| 32.1* | Certification by the Chief Executive Officer pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 |
| 32.2* | Certification by the Chief Financial Officer pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 |
| 101.INS* | XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document |
| 101.SCH* | Inline XBRL Taxonomy Extension Schema Document |
| 101.CAL* | Inline XBRL Taxonomy Extension Calculation Linkbase Document |
| 101.DEF* | Inline XBRL Taxonomy Extension Definition Linkbase Document |
| 101.LAB* | Inline XBRL Taxonomy Extension Label Linkbase Document |
| 101.PRE* | Inline XBRL Taxonomy Extension Presentation Linkbase Document |
| 104 | Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101) |

* Filed herewith

** Certain portions of this exhibit have been omitted pursuant to Item 601(b)(10)(iv) of Regulation S-K. The Company agrees to furnish to the Securities and Exchange Commission a copy of any omitted portions of the exhibit upon request.

† Denotes a management contract or compensatory plan, contract or arrangement.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

| | |
|---|---|
| | **BRIGHTSPIRE CAPITAL, INC.** |
| Date: February 22, 2022 | /s/ Michael J. Mazzei |
| | Michael J. Mazzei<br>Chief Executive Officer |

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Michael J. Mazzei and Frank V. Saracino and each of them severally, her or his true and lawful attorney-in-fact with power of substitution and re-substitution to sign in her or his name, place and stead, in any and all capacities, to do any and all things and execute any and all instruments that such attorney may deem necessary or advisable under the Securities Exchange Act of 1934 and any rules, regulations and requirements of the U.S. Securities and Exchange Commission in connection with this Annual Report on Form 10-K and any and all amendments hereto, as fully for all intents and purposes as she or he might or could do in person, and hereby ratifies and confirms all said attorneys-in-fact and agents, each acting alone, and her or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof. Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, this report has been signed below on behalf of the Registrant in the capacities and on the dates indicated.

| SIGNATURE | TITLE | DATE |
|---|---|---|
| /s/ Michael J. Mazzei<br>Michael J. Mazzei | Chief Executive Officer and Director<br>(Principal Executive Officer) | February 22, 2022 |
| /s/ Frank V. Saracino<br>Frank V. Saracino | Chief Financial Officer<br>(Principal Financial Officer and Principal Accounting Officer) | February 22, 2022 |
| /s/ Catherine D. Rice<br>Catherine D. Rice | Director | February 22, 2022 |
| /s/ Kim S. Diamond<br>Kim S. Diamond | Director | February 22, 2022 |
| /s/ Catherine F. Long<br>Catherine F. Long | Director | February 22, 2022 |
| /s/ Vernon B. Schwartz<br>Vernon B. Schwartz | Director | February 22, 2022 |
| /s/ John E. Westerfield<br>John E. Westerfield | Director | February 22, 2022 |
| /s/ Winston W. Wilson<br>Winston W. Wilson | Director | February 22, 2022 |

# DESCRIPTION OF THE REGISTRANT'S SECURITIES REGISTERED PURSUANT TO SECTION 12 OF THE

# SECURITIES EXCHANGE ACT OF 1934

*The following description sets forth certain material terms and provisions of our Class A common stock, which is our only security registered under Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). This description also summarizes relevant provisions of the Maryland General Corporation Law (the "MGCL") and certain provisions of our Articles of Amendment and Restatement (our "charter") and our Fourth Amended and Restated Bylaws (our "bylaws"). The following summary does not purport to be complete and is subject to, and is qualified in its entirety by reference to, the applicable provisions of the MGCL and our charter and bylaws, each of which are incorporated by reference as exhibits to the Annual Report on Form 10-K of which this Exhibit 4.1 is a part. We encourage you to read our charter, our bylaws and the applicable provisions of the MGCL for additional information.*

## General

Our charter provides that we may issue up to 1,000,000,000 shares of stock, consisting of 950,000,000 shares of our Class A common stock, par value $0.01 per share (our "common stock") and 50,000,000 shares of preferred stock.

## Voting Rights of Common Stock

Subject to the provisions of our charter regarding the restrictions on transfer and ownership of shares of our common stock and except as may otherwise be specified in the terms of any class or series of shares of our common stock, each outstanding share of our common stock entitles the holder to one vote on all matters submitted to a vote of stockholders. There will be no cumulative voting in the election of directors.

Under the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge, convert into another form of entity, sell all or substantially all of its assets, engage in a statutory share exchange or engage in similar transactions outside the ordinary course of business unless declared advisable by a majority of the corporation's board of directors and thereafter approved by the affirmative vote of stockholders holding at least two-thirds of the votes entitled to be cast on the matter unless a lesser percentage (but not less than a majority of all the votes entitled to be cast on the matter) is set forth in the corporation's charter. Our charter provides that these actions (other than amendments to the provisions of our charter related to the removal of directors and charter amendments, which each require the affirmative vote of the stockholders entitled to cast not less than two-thirds of all the votes entitled to be cast on the matter) may be taken if declared advisable by a majority of our board of directors and approved by the vote of stockholders entitled to cast at least a majority of all the votes entitled to be cast on the matter. However, Maryland law permits a corporation to transfer all or substantially all of its assets without the approval of the stockholders of the corporation to one or more persons if all of the equity interests of the person or persons are owned, directly or indirectly, by the corporation.

## Dividends, Liquidation and Other Rights of Common Stock

Subject to the preferential rights of any of our other classes or series of stock, and subject to the provisions of our charter regarding the restrictions on ownership and transfer of shares of our stock, holders of shares of our common stock are entitled to receive dividends on such shares of common stock if, as and when authorized by our board of directors, and declared by our board of directors out of assets or funds legally available therefor. Such holders are also entitled to share ratably in our assets legally available for distribution to our stockholders in the event of its liquidation, dissolution or winding up or any distribution of its assets after payment or establishment of reserves or other adequate provision for all of our debts and liabilities and any class or series of stock with preferential rights related thereto, including our preferred stock.

Holders of our shares of common stock have no preference, conversion, exchange, sinking fund or redemption rights, have no preemptive rights to subscribe for any of our securities and generally have no appraisal rights. Subject to the provisions of our charter regarding the restrictions on ownership and transfer of shares of our capital stock, shares of our common stock will have equal dividend, liquidation and other rights. Rights to receive dividends and other distributions on our common stock may be subject to the preferences established in the terms of any class of our capital stock that may be established in the future.

In the event of our liquidation, dissolution or winding up or any distribution of our assets, each holder of our common stock will be entitled to participate, together with any other class or series of stock not having a preference over our common stock, in the distribution of any remaining assets after payment of our debts and liabilities and distributions to holders of shares having a preference over our common stock.

**Power to Reclassify Unissued Shares of our Capital Stock**

Our charter authorizes our board of directors, without stockholder approval, to classify or reclassify any unissued shares of our common stock and classify any unissued shares of its preferred stock and reclassify any previously classified but unissued shares of its preferred stock into other classes or series of stock and set the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption of any such stock. Thus, our board of directors could authorize the issuance of preferred stock with priority as to distributions and amounts payable upon liquidation over the rights of the holders of our common stock. Such preferred stock could also have the effect of delaying, deferring or preventing a change in control, including an extraordinary transaction (such as a merger, tender offer or sale of all or substantially all of its assets) that might provide a premium price for holders of shares of our common stock.

**Power to Increase or Decrease Authorized Shares of our Capital Stock and Issue Additional Shares of our Capital Stock**

Our charter authorizes our board of directors, with the approval of a majority of our board of directors and without stockholder approval, to amend our charter to increase or decrease the aggregate number of authorized shares of our capital stock or the number of shares of our capital stock of any class or series that we are authorized to issue. The additional classes or series will be available for issuance without further action by our stockholders, unless such action is required by applicable law or the NYSE. Our board of directors could authorize us to issue a class or series of our capital stock that could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change in control of our company that might involve a premium price for holders of shares of our capital stock or otherwise be in the best interest of our stockholders.

**Conversion of the Company Class B Common Stock**

Each share of our Class B common stock converted automatically into one share of our Class A common stock upon the close of trading on February 1, 2019 and each unissued share of Class B common stock was automatically reclassified as a share of Class A common stock.

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company, LLC.

**Listing**

Our common stock is currently listed on the NYSE under the symbol “BRSP.”

**Certain Provisions of Maryland Law and of our Charter and our Bylaws**

*Our Board of Directors*

Our charter and our bylaws provide that, subject to the rights of holders of one or more classes or series of preferred stock, the number of our directors may be established by our board of directors but may not be fewer than the minimum required by the MGCL (which is currently one) nor more than 15. Any vacancy will be filled, at any regular meeting or at any special meeting called for that purpose, by a majority of the remaining directors in office, even if the remaining directors do not constitute a quorum.

There is no cumulative voting in the election of directors. In uncontested elections, directors are elected by an affirmative vote of the majority of the votes cast for and against each director nominee. In contested elections, directors are elected by a plurality of the votes cast. An election will be considered to be contested if (i) our secretary has received notice that a stockholder has nominated an individual for election as a director in compliance with the advance notice procedures of our bylaws and (ii) such nomination has not been withdrawn by the stockholder at least 10 days prior to the date that our proxy statement with respect to the meeting at which such nomination would be made is first released to stockholders and, as a result of which, the number of nominees is greater than the number of directors to be elected at the meeting. In any uncontested election of a director, any incumbent director who does not receive a majority of the votes cast with respect to the election of such director shall tender his or her resignation within three days after certification of the results, in accordance with our written corporate governance guidelines.

Our charter provides that we elect to be subject to a provision of Maryland law requiring that vacancies on our board of directors be filled only by the remaining directors and that any directors elected by our board of directors to fill a vacancy will serve for the remainder of the full term of the class of directors in which the vacancy occurred.

*Removal of Directors*

Our charter provides that, subject to the rights of holders of one or more classes or series of preferred stock, a director may be removed only for cause (defined in our charter to mean, with respect to any particular director, conviction of a felony or a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to us through bad faith or active and deliberate dishonesty), and then only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. This provision, when coupled with the provisions in our charter and our bylaws authorizing our board of directors to fill vacant directorships, precludes stockholders from removing incumbent directors (except by a substantial affirmative vote and only for cause) and filling the vacancies created by the removal with their own nominees.

*Special Meetings of Stockholders*

The Chairperson of our board of directors, the Vice Chairman of our board of directors, our Chief Executive Officer, our President and a majority of our board of directors then in office may call special meetings of our stockholders. A special meeting of our stockholders to act on any matter that may properly be considered at a meeting of our stockholders must also be called by our secretary upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast on such matter at the meeting and containing the information required by our bylaws. Our secretary will inform the requesting stockholders of the reasonably estimated cost of preparing and mailing the notice of meeting (including our proxy materials), and the requesting stockholder must pay such estimated cost before our secretary may prepare and mail the notice of the special meeting.

*Business Combinations*

Under Maryland law, “business combinations” between a Maryland corporation that has 100 or more beneficial owners of its voting stock and an interested stockholder or an affiliate of an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. These business combinations include a merger, consolidation, share exchange or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities. An interested stockholder is defined as:

- any person who beneficially owns 10% or more of the voting power of the corporation’s outstanding voting stock; or

- an affiliate or associate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of then outstanding voting stock of the corporation.

A person is not an interested stockholder under the statute if the board of directors of the corporation approved in advance the transaction by which the person otherwise would have become an interested stockholder. In approving a transaction, the board of directors of the corporation may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by the board of directors.

After the five-year prohibition, any business combination between the Maryland corporation and an interested stockholder generally must be recommended by the board of directors of the corporation and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and

- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom or with whose affiliate the business combination is to be effected or held by an affiliate or associate of the interested stockholder.

These supermajority vote requirements do not apply if the corporation’s common stockholders receive a minimum price, as defined under Maryland law, for their shares in the form of cash or other consideration in the same form as previously paid by the interested stockholder for its shares.

The statute provides various exemptions from its provisions, including for business combinations that are exempted by the board of directors of the corporation before the time that an interested stockholder becomes an interested stockholder for purposes of the statute. In accordance with this statute, our board of directors has exempted any business combinations between us and any person, provided that any such business combination is first approved by our board of directors. Consequently, the five-year prohibition and the supermajority vote requirements will not apply to any future business combinations between us and any interested stockholders (or their affiliates) that are first approved by our board of directors, including any future business combination with DigitalBridge OP or any of its current or future affiliates.

The business combination statute may discourage others from trying to acquire control of the Company in the future and increase the difficulty of consummating any offer.

*Control Share Acquisitions*

Maryland law provides that control shares (as defined below) of a Maryland corporation acquired in a control share acquisition (as defined below) have no voting rights except to the extent approved by the affirmative vote of the holders entitled to cast two-thirds of the votes entitled to be cast on the matter. Shares owned by the acquiror, by officers or by directors who are employees of the corporation are excluded from shares entitled to vote on the matter. Control shares are outstanding voting shares of stock which, if aggregated with all other shares of stock owned by the acquiror or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing directors within one of the following ranges of voting power:

- one-tenth or more but less than one-third;

- one-third or more but less than a majority; or

- a majority or more of all voting power.

Control shares do not include shares that the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval or shares acquired directly from the corporation. A control share acquisition means the acquisition of issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition may compel the board of directors of the corporation to call a special meeting of stockholders to be held within 50 days of a demand to consider the voting rights of the shares. The right to compel the calling of a special meeting is subject to the satisfaction of certain conditions, including an undertaking to pay the expenses of the meeting. If no request for a meeting is made, the corporation may itself present the question at any stockholders meeting.

If voting rights of the control shares acquired in a control share acquisition are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then the corporation may redeem for fair value any or all of the control shares, except those for which voting rights have previously been approved. The right of the corporation to redeem control shares is subject to certain conditions and limitations. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror or, if a meeting of stockholders is held at which the voting rights of the shares are considered and not approved, as of the date of the meeting. If voting rights for control shares are approved at a stockholders meeting and the acquiror becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of appraisal rights may not be less than the highest price per share paid by the acquiror in the control share acquisition.

The control share acquisition statute does not apply: (i) to shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction; or (ii) to acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting us from the control share acquisition statute. This provision may be amended or eliminated at any time in the future.

*Amendments to Our Charter*

Subject to the rights of any shares of preferred stock outstanding from time to time and except for its provisions relating to removal of directors and charter amendments (which each require the affirmative vote of the stockholders entitled to cast not less than two-thirds of all the votes entitled to be cast on the matter), our charter may be amended only if declared advisable by our board of directors and approved by the affirmative vote of the holders of shares entitled to cast a majority of all of the votes entitled to be cast on the matter, except in limited circumstances where stockholder approval is not required under Maryland law or by a specific provision in our charter.

*Dissolution*

The dissolution of the Company must be declared advisable by our board of directors and approved by the affirmative vote of the stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter.

*Subtitle 8*

Subtitle 8 of Title 3 of the MGCL permits a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors to elect to be subject, by provision in its charter or bylaws or a resolution of its board of directors and notwithstanding any contrary provision in its charter or bylaws, to any or all of five provisions:

- a classified board;
- a two-thirds vote requirement for removing a director;
- a requirement that the number of directors be fixed only by vote of the directors;

- a requirement that a vacancy on the board be filled only by the affirmative vote of a majority of the remaining directors then in office (even if the remaining directors do not constitute a quorum) and for the remainder of the full term of the class of directors in which the vacancy occurred; and

- a majority requirement for the calling of a stockholder-requested special meeting of stockholders.

Through provisions in our charter and our bylaws unrelated to Subtitle 8 of Title 3 of the MGCL, our Company already: (i) requires a two-thirds vote for the removal of any director from our board of directors (and only for cause); (ii) vests in our board of directors the exclusive power to fix the number of directorships, and fill vacancies; and (iii) requires, unless called by the Chairperson of our board of directors, the Vice Chairman of our board of directors, President, Chief Executive Officer or our board of directors, the request of holders of a majority of outstanding shares to call a special meeting of stockholders. We have not elected to create a classified board. In the future, our board of directors may elect, without stockholder approval, to classify itself pursuant to the provisions of Subtitle 8 of Title 3 of the MGCL.

*Advance Notice of Director Nominations and New Business*

Our bylaws provide that with respect to an annual meeting of stockholders, nominations of persons for election to our board of directors and the proposal of business to be considered by stockholders may be made only: (i) pursuant to our notice of the meeting; (ii) by or at the direction of our board of directors; or (iii) by a stockholder of record at the time of giving notice, at the record date set by our board of directors for the purpose of determining stockholders entitled to vote at the annual meeting and at the time of the annual meeting, who is entitled to vote at the meeting in the election of directors and who has complied with the advance notice procedures of our bylaws. Stockholders generally must provide notice to our secretary not before the 150th day or after the 120th day before the first anniversary of the date of our proxy statement for the solicitation of proxies for the election of directors at the preceding year’s annual meeting; provided, however, that in connection with our first annual meeting, not earlier than the 150th day prior to the date of such annual meeting and not later than 5:00 p.m. (Eastern Time) on the later of the 120th day prior to the date of such annual meeting, as originally convened, or the 10th day following the day on which public announcement of the date of such meeting is first made.

With respect to special meetings of stockholders, only the business specified in our notice of the meeting may be brought before the meeting. Nominations of persons for election to our board of directors at a special meeting may be made only: (i) by our board of directors; or (ii) by a stockholder at a special meeting that has been called in accordance with our bylaws for the purpose of electing directors, provided that such stockholder is a stockholder of record at the record date set by our board of directors for the special meeting and has complied with the advance notice provisions of our bylaws. Stockholders generally must provide notice to our secretary no earlier than the 120th day before such special meeting and no later than the later of the 90th day before the special meeting or the 10th day after public announcement of the date of the special meeting and the nominees of our board of directors to be elected at the meeting.

*Anti-Takeover Effect of Certain Provisions of Maryland Law and of Our Charter and Our Bylaws*

The business combination provisions and the control share acquisition provisions of Maryland law (if we decide to be bound by such provisions by future action), the provisions of our charter relating to removal of directors and filling vacancies on our board of directors, the restrictions on ownership and transfer of our shares of stock and the advance notice provisions of our bylaws could delay, defer or prevent a transaction or a change in control that might involve a premium price for holders of our common stock or otherwise be in the best interest of our stockholders.

*Indemnification for Liabilities of Our Directors, Officers and Controlling Persons*

Maryland law permits a Maryland corporation to include in its charter a provision eliminating the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from: (i) actual receipt of an improper benefit or profit in the form of money, property or services; or (ii) active and deliberate dishonesty that is established by a final judgment and is material to the cause of action. Our charter contains such a provision which eliminates liability of our directors and officers to the maximum extent permitted by Maryland law.

Our charter and our bylaws obligate us, to the maximum extent permitted by Maryland law, to indemnify, without requiring a preliminary determination of the ultimate entitlement to indemnification, (i) any present or former director or officer or (ii) any individual who, while a director or officer and at our request, serves or has served another corporation, real estate investment trust ("REIT"), limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, trustee, member, manager, employee, partner or agent, and who is made or threatened to be made a party to, or witness in, a proceeding by reason of his or her service in such capacity, and to pay or reimburse his or her reasonable expenses in advance of the final disposition of a proceeding. Our charter and our bylaws also obligate us to indemnify and advance expenses to any person who served our predecessor in any of the capacities described above and permit us, with the approval of our board of directors, to provide the same (or lesser) indemnification and advancement of expenses to any of our or our predecessors' employees or agents.

Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he or she is made a party by reason of his or her service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made, or threatened to be made, a party to, or witness in, by reason of their service in those or other capacities unless it is established that:

- the act or omission of the director or officer was material to the matter giving rise to the proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty;

- the director or officer actually received an improper personal benefit in the form of money, property or services; or

- in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

A Maryland corporation may not indemnify a director or officer with respect to a proceeding by or in the right of the corporation in which the director or officer was adjudged liable to the corporation or a proceeding charging improper personal benefit to the director or officer in which the director or officer was adjudged liable on the basis that personal benefit was improperly received. Upon application by one of our directors or officers to a court of appropriate jurisdiction and upon such notice as the court may require, the court may order indemnification of such director or officer if:

◦ the court determines that such director or officer is entitled to reimbursement for expenses in a matter in which the director has been successful, in which case the director or officer shall be entitled to recover from us the expenses of securing such indemnification; or

◦ the court determines that such director or officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director or officer has met the standards of conduct for which indemnification is permitted under the MGCL or has been adjudged liable for receipt of an "improper personal benefit" under the MGCL; provided, however, that our indemnification obligations to such director or officer will be limited to the expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with any proceeding by us or in our right or in which the officer or director shall have been adjudged liable for receipt of an improper personal benefit under Section 2-418(c) of the MGCL.

In addition, Maryland law permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of: (i) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation; and (ii) a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

We have entered into indemnification agreements with each of our directors and officers that require us to indemnify such directors and officers to the maximum extent permitted by Maryland law and to pay such persons' expenses in defending any civil or criminal proceeding in advance of the final disposition of such proceeding.

Insofar as indemnification for liabilities arising under the Securities Act may be provided to directors, officers or persons controlling us pursuant to the foregoing provisions, we have been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

*Exclusive Forum*

Our bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the U.S. District Court for the District of Maryland, Baltimore Division, will be the sole and exclusive forum for: (i) any derivative action or proceeding brought on our behalf; (ii) any action asserting a claim of breach of any duty owed by any of our directors or officers or other employees to us or to our stockholders; (iii) any action asserting a claim against us or any of our directors or officers or other employees arising pursuant to any provision of the MGCL or our charter or our bylaws; or (iv) any action asserting a claim against us or any of our directors or officers or other employees that is governed by the internal affairs doctrine.

**Restrictions on Ownership and Transfer**

For us to qualify as a REIT under the Internal Revenue Code of 1986 (the "Code"), our capital stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year. Also, not more than 50% of the value of our outstanding stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) during the last half of a taxable year.

Our charter contains restrictions on the number of shares of our capital stock that a person may own. No person, including entities, may acquire or hold, directly or indirectly, in excess of 9.8% in value of the aggregate of the outstanding shares of all classes of our capital stock, which we refer to as the aggregate stock ownership limit. In addition, no person, including entities, may acquire or hold, directly or indirectly, shares of our common stock in excess of 9.8% (in value or number, whichever is more restrictive) of the aggregate of the outstanding shares of our common stock, which we refer to as the common stock ownership limit and, together with the aggregate stock ownership limit, we refer to as the ownership limits.

Our charter further prohibits: (i) any person from beneficially or constructively owning shares of our capital stock that would result in us (A) being "closely held" under Section 856(h) of the Code (without regard to whether the ownership interest is held during the last half of the taxable year); (B) owning (directly or constructively) an interest in a tenant as described in Section 856(d)(2)(B) of the Code if the income derived by us (either directly or indirectly through one or more partnerships or limited liability companies) from such tenant for the taxable year during which such determination is made would reasonably be expected to equal or exceed the lesser of either (1) one percent of our gross income (as determined for purposes of Section 856(c) of the Code); or (2) the amount that would (or, in the sole judgment of our board of directors, could) cause us to fail to satisfy any of the gross income requirements of Section 856(c) of the Code; or (C) otherwise failing to qualify as a REIT; and (ii) any person from transferring our stock if the transfer would result, if effective, in our stock being owned by fewer than 100 persons. Any person who acquires or who attempts or intends to acquire shares of our capital stock that may violate any of these restrictions or who is the intended transferee of shares of our capital stock, which are transferred to a trust as described below is required to give us immediate written notice, or in the case of a proposed or attempted transaction, give at least 15 days prior written notice, and provide us with such information as it may request in order to determine the effect, if any, of the transfer on our qualification as a REIT.

The above restrictions will not apply if our board of directors determines that it is no longer in our best interests to attempt to, or continue to, qualify as a REIT (or that compliance is no longer required for REIT qualification). Our board of directors, in its sole discretion, may exempt (prospectively or retroactively) a person from the ownership limits, subject to such terms, conditions, representations and undertakings as it may determine and as are contained in our charter. Additionally, our board of directors may increase or decrease the ownership limits for one or more persons and increase or decrease the ownership limits for all other persons subject to such terms, conditions, representations and undertakings as it may determine and as are contained in our charter.

Any attempted transfer of shares of our capital stock that would result in shares of our capital stock being owned by fewer than 100 persons will be null and void, and the intended transferee will acquire no rights in such shares. Any attempted transfer of shares of our capital stock which, if effective, would result in any other violation of the above limitations, will cause the number of shares causing the violation (rounded up to the nearest whole share) to be automatically transferred to a trust for the exclusive benefit of one or more charitable beneficiaries and the proposed transferee will not acquire any rights in such shares. If the automatic transfer to the trust would not be effective for any reason to prevent the violation of the above limitations, then the transfer of that number of shares of our capital stock that otherwise would cause the violation will be null and void, and the intended transferee will not acquire any rights in such shares. The automatic transfer will be deemed to be effective as of the close of business on the business day (as defined in our charter) prior to the date of the purported transfer.

Shares of our capital stock held in a trust pursuant to our charter will continue to be issued and outstanding shares of our capital stock. The prohibited owner will not benefit economically from ownership of any shares of our capital stock held in the trust, will have no rights to dividends or other distributions and no rights to vote or other rights attributable to the shares of our capital stock held in the trust. The trustee of the trust will have all voting rights and rights to dividends or other distributions with respect to shares held in the trust. These rights will be exercised for the exclusive benefit of the charitable beneficiary or beneficiaries. Any dividend or other distribution paid with respect to shares of our capital stock prior to the discovery by us that shares have been transferred to the trustee must be paid by the prohibited owner to the trustee upon demand. Any dividend or other distribution authorized but unpaid will be paid when due to the trustee. Any dividend or other distribution paid to the trustee will be held in trust for the charitable beneficiary or beneficiaries. Subject to Maryland law, effective as of the date that the shares of our capital stock are transferred to the trust, the trustee will have the authority, at the trustee's sole and absolute discretion, to: (i) rescind as void any vote cast by the prohibited owner prior to the discovery by us that the shares have been transferred to the trustee; and (ii) recast the vote. However, if we have already taken irreversible corporate action, then the trustee will not have the authority to rescind and recast the vote. Our board of directors may establish additional trusts with distinct trustees and charitable beneficiaries to which shares may be transferred, if necessary to protect our qualification as a REIT. Furthermore, our charter grants our board of directors the authority to take other actions, including the redemption of shares of stock that it deems advisable to prevent a violation of the transfer and ownership restrictions described above.

Within 20 days of receiving notice from us that shares of our capital stock have been transferred to the trust, the trustee of the trust will sell the shares to a person designated by the trustee, whose ownership of the shares will not violate the above ownership limits. Upon the sale, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the prohibited owner and to the charitable beneficiary as follows. The prohibited owner will receive the lesser of: (i) the price paid by the prohibited owner for the shares or, if the prohibited owner did not give value for the shares in connection with the event causing the shares to be held in the trust (*e.g.*, a gift, devise or other similar transaction), the market price (as defined in our charter) of the shares on the day of the event causing the shares to be held in the trust and (ii) the price per share received by the trustee, net of any commission and other expenses of sale, from the sale or other disposition of the shares held in the trust. The trustee may reduce the amount payable to the prohibited owner by the amount of dividends or other distributions which have been paid to the prohibited owner and are owed by the prohibited owner to the trustee. Any net sale proceeds in excess of the amount payable to the prohibited owner will be paid immediately to the charitable beneficiary. If, prior to us discovering that shares of our capital stock have been transferred to the trustee, the shares are sold by the prohibited owner, then: (i) the shares will be deemed to have been sold on behalf of the trust; and (ii) to the extent that the prohibited owner received an amount for the shares that exceeds the amount he, she or it was entitled to receive, the excess will be paid to the trustee upon demand.

In addition, shares of our capital stock held in the trust will be deemed to have been offered for sale to us, or our designee, at a price per share equal to the lesser of: (i) the price per share in the transaction that resulted in the transfer to the trust (or, in the case of a devise or gift, the market price at the time of the devise or gift); and (ii) the market price on the date we, or our designee, accepts the offer. We may reduce the amount payable to the prohibited owner by the amount of dividends or other distributions that have been paid to the prohibited owner and are owed by the prohibited owner to the trustee. We may pay the amount of such reduction to the trustee for the benefit of the charitable beneficiary. We will have the right to accept the offer until the trustee has sold the shares. Upon a sale to us, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the prohibited owner.

Any certificates representing shares of our capital stock will bear a legend referring to the restrictions described above.

Every owner of 5% or more (or such lower percentage as required by the Code or the regulations promulgated thereunder) of our outstanding stock is required, within 30 days after the end of each taxable year, to give us written notice stating his, her or its name and address, the number of shares of each of our classes and series of stock that he, she or it beneficially owns and a description of the manner in which the shares are held. Each such owner must provide us with such additional information as we may request in order to determine the effect, if any, of such owner's beneficial ownership on our qualification as a REIT and to ensure compliance with the ownership limits. In addition, each stockholder must provide us with such information as we may request in order to determine our qualification as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance and to ensure compliance with the ownership limits.

These restrictions on ownership and transfer could delay, defer or prevent a transaction or a change in control that might involve a premium price for holders of shares of our common stock or otherwise be in the best interest of our stockholders.

# SECOND AMENDMENT TO MASTER REPURCHASE AGREEMENT

**SECOND AMENDMENT TO MASTER REPURCHASE AGREEMENT**, dated as of February 8, 2022 (this "Amendment"), by and between **BARCLAYS BANK PLC**, a public limited company organized under the laws of England and Wales (together with its successors and assigns, "Purchaser"), and **BRIGHTSPIRE CREDIT 7, LLC** (formerly known as CLNC CREDIT 7, LLC), a limited liability company organized under the laws of the State of Delaware ("Seller"). Capitalized terms used and not otherwise defined herein shall have the meanings given to such terms in the Repurchase Agreement (as defined below and as amended hereby).

## RECITALS

**WHEREAS**, Seller and Purchaser are parties to that certain Master Repurchase Agreement, dated as of April 26, 2018, as amended by that certain First Amendment to Master Repurchase Agreement, dated as of January 22, 2021 (as so amended, the "Existing Repurchase Agreement" and, as amended by this Amendment, and as hereafter further amended, modified, restated, replaced, waived, substituted, supplemented or extended from time to time, the "Repurchase Agreement"); and

**WHEREAS**, Purchaser and Seller desire to make certain amendments and modifications to the Existing Repurchase Agreement as further set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

## ARTICLE 1

## AMENDMENTS TO REPURCHASE AGREEMENT

(a) Clause (iii) of the definition of "Eligibility Criteria" in Article 2 of the Existing Repurchase Agreement and on Schedule 3(b) to Exhibit II to the Existing Repurchase Agreement is hereby amended and restated as follows:

(iii) accrues interest at a floating rate based on LIBOR, Term SOFR or the SOFR Average;

(b) Article 2 of the Existing Repurchase Agreement is hereby amended by deleting the definitions of "Applicable Index," "Prime Rate" and "Prime Rate Transaction."

(c) Article 2 of the Existing Repurchase Agreement is hereby amended by adding any new definitions set forth on Exhibit A hereto and amending and restating any existing definitions which are set forth on Exhibit A hereto.

(d) Clause (B) of Article 6(a)(i) of the Existing Repurchase Agreement is hereby amended and restated as follows:

(B) to maintain or continue any Transaction and Purchaser does not have any means of complying with Requirements of Law other than to terminate such Transaction after exercising commercially reasonable efforts to comply with such Requirements of Law without having to terminate such Transaction (including, if applicable, by converting the Transaction to a Replacement Benchmark pursuant to the immediately following clause (C) or pursuant to Article 6(b)), then a Repurchase Date for such Transaction shall occur on the later to occur of (x) the date that is ten (10) Business Days after delivery of written notice thereof from Purchaser to Seller and (y) the next Remittance Date, or on such earlier date as may be required by law or

(e) Clause (C) of Article 6(a)(i) of the Existing Repurchase Agreement is hereby amended and restated as follows:

(C) to accrue Purchase Price Differential based on the then-applicable Benchmark for any Transaction, then each such Transaction then outstanding shall be converted automatically to a new Benchmark pursuant to the definition of "Benchmark Replacement" and Article 6(b) on the next Pricing Rate Determination Date or within such earlier period as may be required by law.

(f) Clause (B) of Article 6(a)(ii) of the Existing Repurchase Agreement is hereby amended by replacing the words "Applicable Index" to the word "Benchmark" therein.

(g) Article 6(b) of the Existing Repurchase Agreement is hereby amended and restated as follows:

(b) Benchmark Transition. (i) Notwithstanding anything to the contrary herein or in any other Transaction Document, if a Benchmark Transition Event or a SOFR Transition Event, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time for any Pricing Rate Determination Date in respect of any determination of the then-current Benchmark for any Transaction, the Benchmark Replacement will replace the then-current Benchmark with respect to each such Transaction for all purposes hereunder or under any Transaction Document in respect of such determination on such Pricing Rate Determination Date and all determinations on all subsequent dates, without any amendment to, or further action or consent of any other party to, this Agreement. The Benchmark Replacement shall become effective with respect to each applicable Transaction on the applicable Benchmark Replacement Date.

(ii) In connection with the administration of any Benchmark or the implementation of any Benchmark Replacement, Purchaser shall have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Transaction Document, any amendments implementing such Benchmark Replacement Conforming Changes shall become effective without any further action or consent of any other party to this Agreement.

(iii) Purchaser shall promptly notify Seller of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Benchmark Replacement Conforming Changes. For the avoidance of doubt, any notice required to be delivered by Purchaser as set forth in this paragraph may be provided, at the option of Purchaser (in its sole and absolute discretion), in one or more notices and may be delivered together with, or as part of any amendment which implements any Benchmark Replacement or Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by Purchaser pursuant to this Article 6(b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, shall be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Article 6(b).

(iv) Purchaser does not warrant or accept any responsibility for, and shall not have any liability with respect to (i) the administration, submission or any other matter related to the Benchmark or any Benchmark Replacement implemented hereunder, (ii) the composition or characteristics of any such Benchmark or Benchmark Replacement, including whether any Benchmark Replacement is similar to, or produces the same value or economic equivalence to any Benchmark which it replaces or has the same volume or liquidity as any Benchmark which it replaces or any other Benchmark, (iii) any actions or use of its discretion provided hereunder or other decisions or determinations made with respect to any matters covered by this Article 6 including, without limitation, whether or not a Benchmark Transition Event has occurred, whether to declare a SOFR Transition Event, the removal or lack thereof of unavailable or non-representative tenors of any Benchmark, the implementation or lack thereof of any Benchmark Replacement Conforming Changes implemented in accordance with this Article 6(b), or (iv) the effect of any of the foregoing provisions of Article 6.

(v) Purchaser shall exercise its rights and remedies pursuant to the definitions of "Benchmark Replacement", "Benchmark Replacement Adjustment," "Benchmark Replacement Conforming Changes" and "SOFR Transition Event" in a manner which is consistent with its exercise of such rights and remedies under other commercial mortgage loan repurchase facilities with similarly situated counterparties covered by the same group within Purchaser.

(vi) Interest Rate; LIBOR Notification. The Purchase Price Differential on LIBOR Transactions is determined by reference to LIBOR, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. On March 5, 2021, the U.K. Financial Conduct Authority ("FCA") publicly announced that: (a) immediately after December 31, 2021, publication of the 1-week and 2-month U.S. Dollar LIBOR settings will permanently cease; immediately after June 30, 2023, publication of the overnight and 12-month U.S. Dollar LIBOR settings will permanently cease; and immediately after June 30, 2023, the 1-month, 3-month and 6-month U.S. Dollar LIBOR settings will cease to be provided or, subject to the FCA's consideration of the case, be provided on a synthetic basis and no longer be representative of the underlying market and economic reality they are intended to measure and that representativeness will not be restored. There is no assurance that the dates announced by the FCA will not change or that the administrator of LIBOR and/or regulators will not take further action that could impact the availability, composition, or characteristics of LIBOR or the currencies and/or tenors for which LIBOR is published. Each party to this Agreement should consult its own advisors to stay informed of any such developments. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Article 6(b), such Article 6(b) provides a mechanism for determining the Benchmark Replacement. Purchaser will notify Seller, pursuant to Article 6(b), in advance of any change to the reference rate upon which the interest rate on LIBOR Transactions is based. Prior to a Benchmark Replacement Date, Article 6(b) provides a mechanism for determining an alternative rate of interest. Purchaser will promptly notify Seller, pursuant to Article 6(b), of any change to the reference rate upon which the interest rate on LIBOR Transactions is based. However, Purchaser does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of LIBOR or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, (i) any such alternative, successor or replacement rate implemented pursuant to Article 6(b), whether or not upon the occurrence of a Benchmark Replacement Date, and (ii) the implementation of any Benchmark Replacement Conforming Changes pursuant to Article 6(b)), including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, LIBOR or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

(h) Exhibit II of the Existing Repurchase Agreement is hereby amended by replacing the "Applicable Index: LIBOR" row with the following two rows:

Initial Benchmark: [LIBOR][Term SOFR][SOFR Average]

Benchmark Floor: _________%

(i) The representation in paragraph B.34. on Exhibit V to the of the Existing Repurchase Agreement is hereby amended and restated as follows:

34. Interest Rates. The Mortgage Loan bears interest at a floating rate of interest that is based on LIBOR, Term SOFR or the SOFR Average plus a margin (which interest rate may be subject to a minimum or "floor" rate).

(j) The representation in paragraph C.15. on Exhibit V to the of the Existing Repurchase Agreement is hereby amended and restated as follows:

15. Interest Rates. Each Mezzanine Loan bears interest at a floating rate of interest that is based on LIBOR, Term SOFR or the SOFR Average plus a margin (which interest rate may be subject to a minimum or "floor" rate).

## ARTICLE 2

## REPRESENTATIONS

Seller represents and warrants to Purchaser, as of the date of this Amendment, as follows:

(a) all representations and warranties made by any Seller Party in the Transaction Documents to which it is a party (other than representations and warranties made pursuant to Article 10(w) and Exhibit V of the Repurchase Agreement unless Seller shall have made any such representation or warranty with actual knowledge that it was materially false or misleading at the time made) are true and correct, as of the date hereof with the same force and effect as if made on and as of such date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date);

(b) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and is duly qualified in each jurisdiction necessary to conduct business as presently conducted;

(c) it is duly authorized to execute and deliver this Amendment and to perform its obligations under the Existing Repurchase Agreement, as amended and modified hereby, and has taken all necessary action to authorize such execution, delivery and performance;

(d) the person signing this Amendment on its behalf is duly authorized to do so on its behalf;

(e) the execution, delivery and performance of this Amendment will not violate any Requirement of Law applicable to it or its organizational documents or any agreement by which it is bound or by which any of its assets are affected;

(f) this Amendment has been duly executed and delivered by it; and

(g) the Existing Repurchase Agreement, as amended and modified hereby, constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, other limitations on creditors' rights generally and general principles of equity.

## ARTICLE 3

## EXPENSES

Seller shall pay on demand all of Purchaser's actual out-of-pocket costs and expenses, including but not limited to reasonable fees and expenses of Purchaser's outside counsel, incurred in connection with the preparation, negotiation, execution and consummation of this Amendment.

## ARTICLE 4

## GOVERNING LAW

THIS AMENDMENT (AND ANY CLAIM OR CONTROVERSY HEREUNDER) SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS, AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS WITHOUT REGARD TO THE CONFLICT OF LAWS DOCTRINE APPLIED IN SUCH STATE (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).

## ARTICLE 5

## MISCELLANEOUS

(a) Except as expressly amended or modified hereby, the Repurchase Agreement and the other Transaction Documents shall each be and shall remain in full force and effect in accordance with their terms and are hereby ratified and confirmed. All references to the Transaction Documents shall be deemed to mean the Transaction Documents as modified by this Amendment.

(b) This Amendment may be executed in counterparts, each of which so executed shall be deemed to be an original, but all of such counterparts shall together constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this Amendment in electronic format (such as PDF files) shall be as effective as delivery of a manually executed original counterpart of this Amendment and shall be binding on all parties.

(c) The headings in this Amendment are for convenience of reference only and shall not affect the interpretation or construction of this Amendment.

(d) This Amendment may not be amended or otherwise modified, waived or supplemented except as provided in the Repurchase Agreement.

(e) This Amendment contains a final and complete integration of all prior expressions by the parties with respect to the subject matter hereof and shall constitute the entire agreement among the parties with respect to such subject matter, superseding all prior oral or written understandings.

(f) This Amendment and the Repurchase Agreement, as amended hereby, is a single Transaction Document and shall be construed in accordance with the terms and provisions of the Repurchase Agreement.

[SIGNATURE PAGES FOLLOW]

**IN WITNESS WHEREOF,** the parties have caused this Amendment to be duly executed, as of the date first above written.

**BARCLAYS BANK PLC**, as Purchaser

By: /s/ Francis X. Gilhool
Name: Francis X. Gilhool
Title: Authorized Signatory

**BRIGHTSPIRE CREDIT 7, LLC**, as Seller

By: /s/ David A. Palamé
Name: David A. Palamé
Title: Vice President

## EXHIBIT A

## RELEVANT DEFINITIONS

"Benchmark" shall mean, initially, for any Transaction, (i) with a Purchase Date prior to January 1, 2022, initially, LIBOR, (ii) with a Purchase Date on or after January 1, 2022 and for which the SOFR Average is designated as the Benchmark in the related Confirmation, initially, the SOFR Average, (iii) with a Purchase Date on or after January 1, 2022 and for which Term SOFR is designated as the Benchmark in the related Confirmation, initially, Term SOFR or (iv) such other Benchmark as is mutually agreed to by Seller and Purchaser as set forth in the related Confirmation; provided that, in each case, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to such Benchmark or any other then-current Benchmark, then "Benchmark" shall mean the applicable Benchmark Replacement to the extent that such Benchmark Replacement has become effective pursuant to Article 6(b).

"Benchmark Floor" shall mean, at any time, with respect to any Transaction, the greater of (a) zero and (b) the Benchmark Floor set forth in the related Confirmation with respect to the then-applicable Benchmark.

"Benchmark Replacement" shall mean, with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by Purchaser as the replacement for the then-current Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for such Benchmark for U.S. dollar-denominated commercial mortgage loan repurchase facilities or other similar agreements at such time and (b) the Benchmark Replacement Adjustment; provided, that in connection with a SOFR Transition Event, such Benchmark Replacement shall be the SOFR Average or Term SOFR, as applicable (so long as no Benchmark Transition Event and Benchmark Replacement Date has occurred with respect to such rate), as determined by Purchaser in its sole discretion. Notwithstanding the foregoing, if any setting of the Benchmark Replacement as provided above would result in such Benchmark Replacement setting being less than the applicable Benchmark Floor, such setting of the Benchmark Replacement shall instead be deemed to be such Benchmark Floor.

"Benchmark Replacement Adjustment" shall mean, with respect to any replacement of the then-current Benchmark for any Transaction, the spread adjustment or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by Purchaser giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Benchmark Replacement for U.S. dollar-denominated commercial mortgage loan repurchase facilities at such time.

"Benchmark Replacement Conforming Changes" shall mean with respect to any Benchmark or Benchmark Replacement, any technical, administrative or operational changes (including, without limitation, changes to the definitions of “Business Day,” “Pricing Rate,” “Pricing Rate Period,” “Reference Time,” “Term SOFR” and “SOFR Average” and any similar defined term in this Agreement, provisions with respect to timing and frequency of determining rates and making payments of price differential, length of lookback periods, the formula for calculating such Benchmark Replacement, the formula, methodology or convention for applying the Benchmark Floor to any Benchmark Replacement and other technical, administrative or operational matters) that Purchaser decides may be appropriate to reflect the adoption and implementation, and to permit the administration, of such Benchmark or Benchmark Replacement by Purchaser in a manner substantially consistent with market practice (or, if Purchaser decides that any portion of such market practice is not administratively feasible or if Purchaser determines that no market practice for the administration thereof exists, in such other manner of administration as Purchaser decides is reasonably necessary in connection with the administration of this Agreement).

“Benchmark Replacement Date” shall mean the earliest to occur of the following events with respect to the then-current Benchmark for any Transaction:

(i) in the case of clause (i) or (ii) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein (which the parties hereto acknowledge occurred with respect to LIBOR on March 5, 2021) and (b) the date on which the administrator of such Benchmark permanently or indefinitely ceases to provide such Benchmark; or

(ii) in the case of clause (iii) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark has been determined and announced by the regulatory supervisor for the administrator of such Benchmark to be no longer representative or to be non-compliant with or non-aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks, provided, that such non-representativeness, non-compliance or non-alignment will be determined by reference to the most recent statement or publication referenced in such clause (iii) even if such Benchmark continues to be provided on such date;

(iii) in the case of any other clause of the definition of “Benchmark Transition Event,” the date set forth in a written notice from Purchaser to Seller; or

(iv) in the case of a SOFR Transition Event, the date set forth in the notice of such SOFR Transition Event.

For the avoidance of doubt, if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination.

“Benchmark Transition Event” shall mean the occurrence of one or more of the following events with respect to the then-current Benchmark for any Transaction:

(i) a public statement or publication of information by or on behalf of the administrator of such Benchmark announcing that such administrator has ceased or will cease to provide such Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark;

(ii) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, which states that the administrator of such Benchmark has ceased or will cease to provide such Benchmark permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark;

(iii) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark announcing that such Benchmark is not, or as of a specified future date will not be, representative or in compliance with or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks; or

(iv) Purchaser determines in its reasonable discretion that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining such Benchmark; or

(v) Purchaser determines in its sole discretion that the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for Purchaser to accrue Purchase Price Differential based on such Benchmark.

"LIBOR" shall mean, with respect to any Pricing Rate Period and any Transaction for which LIBOR is the then-current Benchmark, the rate determined by Purchaser to be (i) the *per annum* rate for one (1) month deposits in Dollars, which appears on the Reuters Screen LIBOR01 Page (or any successor thereto) as the London Interbank Offering Rate as of 11:00 a.m., London time, on the related Pricing Rate Determination Date (expressed as a percentage per annum and rounded upward, if necessary, to the next nearest 1/1000 of 1%); (ii) if such rate does not appear on said Reuters Screen LIBOR01 Page, the arithmetic mean (rounded as aforesaid) of the offered quotations of rates obtained by Purchaser from the Reference Banks for one (1) month deposits in Dollars to prime banks in the London Interbank market as of approximately 11:00 a.m., London time, on the related Pricing Rate Determination Date and in an amount that is representative for a single transaction in the relevant market at the relevant time; or (iii) if fewer than two (2) Reference Banks provide Purchaser with such quotations, the rate *per annum* which Purchaser determines to be the arithmetic mean (rounded as aforesaid) of the offered quotations of rates which major banks in New York, New York selected by Purchaser are quoting at approximately 11:00 a.m., New York City time, on the related Pricing Rate Determination Date for loans in Dollars to leading European banks for a period equal to the applicable Pricing Rate Period in amounts of not less than $1,000,000.00; provided, that such selected banks shall be the same banks as selected for all of Purchaser's other commercial real estate repurchase facilities where LIBOR is to be applied, to the extent such banks are available. Purchaser's determination of LIBOR shall be binding and conclusive on Seller absent manifest error. LIBOR may or may not be the lowest rate based upon the market for U.S. Dollar deposits in the London Interbank Eurodollar Market at which Purchaser prices loans on the date which LIBOR is determined by Purchaser as set forth above. Notwithstanding the foregoing, if any setting of LIBOR as provided above would result in such LIBOR setting being less than the applicable Benchmark Floor, such setting of LIBOR shall instead be deemed to be such Benchmark Floor.

"LIBOR Transaction" shall mean, with respect to any Pricing Rate Period, any Transaction with respect to which the Pricing Rate is determined for such Pricing Rate Period with reference to LIBOR.

"Pricing Rate" shall mean, for any Transaction and Pricing Rate Period, an annual rate equal to the sum of (a) the greater of (x) the applicable Benchmark Floor for such Transaction and (y) the applicable Benchmark for such Transaction and Pricing Rate Period *plus* (b) the applicable Spread for such Transaction and Pricing Rate Period, which shall be subject to adjustment and/or conversion as provided in Articles 6(a)(i) and 6(b).

"Pricing Rate Determination Date" shall mean, with respect to any Pricing Rate Period and (i) any Transaction for which LIBOR is the then-current Benchmark, the second (2nd) London Business Day preceding the first day of such Pricing Rate Period, (ii) any Transaction for which Term SOFR or the SOFR Average is the then-current Benchmark, the second (2nd) U.S. Government Securities Business Day preceding the first day of such Pricing Rate Period or (iii) any Transaction for which none of LIBOR, Term SOFR or the SOFR Average is the then-current Benchmark, the second (2nd) Business Day preceding the first day of such Pricing Rate Period or such other day as may be determined by Purchaser in accordance with the Benchmark Replacement Conforming Changes.

"Reference Time" shall mean, with respect to any setting of the then-current Benchmark for each Pricing Rate Period, (a) if such Benchmark is Term SOFR or the SOFR Average, 3:00 p.m. (New York city) time on the applicable Pricing Rate Determination Date and (b) if such Benchmark is not Term SOFR or the SOFR Average, then the time determined by Purchaser in accordance with the Benchmark Replacement Conforming Changes.

"SOFR Administrator" shall mean the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" shall mean the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"SOFR Average" shall mean, with respect to each Pricing Rate Period, the compounded average of the secured overnight financing rate as administered by the SOFR Administrator over a rolling calendar day period of thirty (30) days ("30-Day SOFR Average") which, shall be the 30-Day SOFR Average (expressed as a percentage per annum and rounded upward, if necessary, to the next nearest 1/1000 of 1%) published by the SOFR Administrator on the SOFR Administrator's Website as of the related Reference Time; provided, however, that if, as of such

Reference Time, the 30-Day SOFR Average has not been published on the SOFR Administrator's Website, the SOFR Average for such setting will be 30-Day SOFR Average as published on the SOFR Administrator's Website for the first preceding U.S. Government Securities Business Day for which such 30-Day SOFR Average was published on the SOFR Administrator's Website so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to the related SOFR Based Pricing Rate Determination Date. Notwithstanding the foregoing, if any setting of the SOFR Average as provided above would result in such setting being less than the applicable Benchmark Floor, such setting of the SOFR Average shall instead be deemed to be such Benchmark Floor.

"SOFR Transition Event" shall mean the delivery by Purchaser, in its sole and absolute discretion, to convert all Transactions utilizing an applicable Benchmark to Term SOFR or the SOFR Average, which election is evidenced by a written notice thereof delivered by Purchaser to Seller.

"U.S. Government Securities Business Day" shall mean, any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association, or any successor thereto, recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

# THIRD AMENDMENT TO GUARANTY

THIRD AMENDMENT TO GUARANTY, dated as of January 28, 2022 (this "Amendment"), by and between BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC, a Delaware limited liability company ("Guarantor"), and BARCLAYS BANK PLC, a public limited company organized under the laws of England and Wales ("Purchaser"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Repurchase Agreement (as hereinafter defined).

## RECITALS

WHEREAS, BrightSpire Credit 7, LLC, a Delaware limited liability company ("Seller") and Purchaser are parties to that certain Master Repurchase Agreement, dated as of April 26, 2018, as amended by that certain First Amendment to Master Repurchase Agreement, dated as of January 22, 2021 (as amended, modified and/or restated, the "Repurchase Agreement"), between Seller and Purchaser;

WHEREAS, Guarantor guaranteed the obligations of Seller under the Repurchase Agreement and the other Transaction Documents pursuant to that certain Guaranty, dated as of April 26, 2018, as amended by that certain Amendment to Guaranty, dated as of May 7, 2020 and that certain Second Amendment to the Guaranty, dated as of April 14, 2021 (as further amended, modified and/or restated, the "Guaranty"), from Guarantor to Purchaser; and

WHEREAS, Guarantor and Purchaser wish to amend and modify the Guaranty upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor and Purchaser hereby agree that the Guaranty shall be amended and modified as follows:

1. Amendment of Guaranty. Article V(k)(ii) of the Guaranty is hereby deleted in its entirety and replaced with the following:

> (ii) Minimum Consolidated Tangible Net Worth. Guarantor's Consolidated Tangible Net Worth at any time shall not be less than the sum of (i) $1,112,000,000, plus (ii) seventy percent (70%) of the net cash proceeds thereafter received by Guarantor (x) from any offering by Guarantor of its common equity and (y) from any offering by BrightSpire Capital, Inc. of its common equity to the extent such net cash proceeds are contributed to Guarantor, excluding any such net cash proceeds that are contributed to Guarantor within ninety (90) days of receipt of such net cash proceeds and applied to purchase, redeem or otherwise acquire Capital Stock issued by Guarantor (or any direct or indirect parent thereof).

2. Amendment of Transaction Documents. From and after the date hereof, all references in the Repurchase Agreement and the other Transaction Documents to the Guaranty shall be deemed to refer to the Guaranty as amended and modified by this Amendment and as same may be further amended, modified and/or restated.

3. Reaffirmation of Representations and Warranties. Guarantor hereby represents and warrants to Purchaser that, as of the date hereof, (i) it has the power to execute, deliver and perform its obligations under this Amendment, (ii) this Amendment has been duly executed and delivered by it for good and valuable consideration, and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms subject to bankruptcy, insolvency, and other limitations on creditors' rights generally and to equitable principles, and (iii) neither the execution and delivery of this Amendment, nor the consummation by it of the transactions contemplated by this Amendment, nor compliance by it with the terms, conditions and provisions of this Amendment will conflict with or result in a breach of any of the terms, conditions or provisions of (A) its organizational documents, (B) any contractual obligation to which it is now a party or the rights under which have been assigned to it or the obligations under which have been assumed by it or to which its assets are subject or constitute a default thereunder, or result thereunder in the creation or imposition of any lien upon any of its assets, other than pursuant to this Amendment, (C) any judgment or order, writ, injunction, decree or demand of any court applicable to it, or (D) any applicable Requirement of Law, in the case of clauses (B)-(D) above, to the extent that such conflict or breach is reasonably likely to result in a Material Adverse Effect. Guarantor hereby represents and warrants to Purchaser that all of the representations and warranties set forth in Article IV of the Guaranty are true and correct on and as of the date hereof with the same force and effect as if made on and as of such date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date).

4. Counterparts. This Amendment may be executed by each of the parties hereto in any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart thereof.

**5. GOVERNING LAW. THIS AMENDMENT (AND ANY CLAIM OR CONTROVERSY HEREUNDER) SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS, AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS WITHOUT REGARD TO THE CONFLICT OF LAWS DOCTRINE APPLIED IN SUCH STATE (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).**

6. Expenses. Seller hereby acknowledges and agrees that Seller shall be responsible for all reasonable out-of-pocket costs and expenses of Purchaser in connection with documenting and consummating the modifications contemplated by this Amendment, including, but not limited to, the reasonable fees and expenses of Purchaser's external legal counsel.

7. Reaffirmation of Guaranty. Guarantor acknowledges and agrees that, except as modified hereby, the Guaranty remains unmodified and in full force and effect and enforceable in accordance with its terms.

8. Repurchase Agreement, Guaranty and Transaction Documents in Full Force and Effect. Except as expressly amended hereby, Seller and Guarantor acknowledge and agree that all of the terms, covenants and conditions of the Repurchase Agreement and the Transaction Documents remain unmodified and in full force and effect and are hereby ratified and confirmed in all respects.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**GUARANTOR:**

**BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC**,

By: /s/ David A. Palamé____________
Name: David A. Palamé
Title: Vice President

**PURCHASER:**

**BARCLAYS BANK PLC**

By: /s/ Francis X. Gilhool_____________
Name: Francis X. Gilhool
Title: Authorized Signatory

[*Signature Page to Third Amendment to Guaranty*]

**ACKNOWLEDGED AND AGREED**
**AS OF THE DATE FIRST SET FORTH ABOVE:**

**SELLER:**

**BRIGHTSPIRE CREDIT 7, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

[*Signature Page to Third Amendment to Guaranty*]

# THIRD AMENDMENT TO GUARANTY

This **THIRD AMENDMENT TO GUARANTY**, dated as of January 28, 2022 (this "Amendment"), by and between **BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC**, a Delaware limited liability company (formerly known as "CREDIT RE OPERATING COMPANY", "Guarantor"), and **GOLDMAN SACHS BANK USA**, a New York State member bank ("Purchaser"), and acknowledged and agreed to by **BRIGHTSPIRE CREDIT 6, LLC**, a Delaware limited liability company ("Seller"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Repurchase Agreement (as hereinafter defined).

## RECITALS

WHEREAS, Seller and Purchaser are parties to that certain Master Repurchase Agreement, dated as of June 19, 2018, as amended by that certain First Amendment to Master Repurchase Agreement, dated as of June 16, 2020, and that certain Second Amendment to Master Repurchase Agreement and Other Transaction Documents, dated as of the date hereof (as amended, modified and/or restated, the "Repurchase Agreement"), between Seller and Purchaser;

WHEREAS, Guarantor guaranteed the obligations of Seller under the Repurchase Agreement and the other Transaction Documents pursuant to that certain Guaranty, dated as of June 19, 2018, as amended by that certain Amendment to Guaranty, dated as of May 7, 2020, as further amended by that certain Second Amendment to Guaranty, dated as of April 14, 2021 (as amended, modified and/or restated, the "Guaranty"), from Guarantor to Purchaser; and

WHEREAS, Guarantor and Purchaser wish to amend and modify the Guaranty upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor and Purchaser hereby agree that the Guaranty shall be amended and modified as follows:

1. Amendment of Guaranty. Guarantor and Purchaser hereby agree that the Guaranty shall be amended and modified as follows:

a. Article V(k)(A)(ii) of the Guaranty is hereby deleted in its entirety and replaced with the following:

(ii) Minimum Tangible Net Worth. Consolidated Tangible Net Worth at any time shall not be less than the sum of (i) $1,112,000,000.00 plus (ii) seventy percent (70%) of the net cash proceeds thereafter received by the Guarantor (x) from any offering by the Guarantor of its common equity and (y) from any offering by BrightSpire Capital, Inc. of its common equity to the extent such net cash proceeds are contributed to the Guarantor, excluding any such net cash proceeds that are contributed to the Guarantor within ninety (90) days of receipt of such net cash proceeds and applied to purchase, redeem or otherwise acquire Capital Stock issued by the Guarantor (or any direct or indirect parent thereof).

2. Amendment of Transaction Documents. From and after the date hereof, all references in the Repurchase Agreement and the other Transaction Documents to the Guaranty shall be deemed to refer to the Guaranty as amended and modified by this Amendment and as same may be further amended, modified and/or restated.

3. Reaffirmation of Representations and Warranties. Guarantor hereby represents and warrants to Purchaser that, as of the date hereof, (i) it is duly authorized to execute and deliver this Amendment and to perform its obligations under this Amendment, and has taken all necessary action to authorize such execution, delivery and performance, and each person signing this Amendment on its behalf is duly authorized to do so on its behalf, (ii) this Amendment has been duly executed and delivered by it for good and valuable consideration, and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms subject to bankruptcy, insolvency, and other limitations on creditors' rights generally and to equitable principles, (iii) neither the execution and delivery of this Amendment, nor the consummation by it of the transactions contemplated by this Amendment, nor compliance by it with the terms, conditions and provisions of this Amendment will conflict with or result in a breach of any of the terms, conditions or provisions of (A) its organizational documents, (B) any agreement by which it is bound or to which any of its assets are subject or constitute a default thereunder, or result thereunder in the creation or imposition of any lien upon any of its assets, other than pursuant to this Amendment, (C) any judgment or order, writ, injunction, decree or demand of any court applicable to it, or (D) any applicable Requirement of Law, in the case of clauses (B)-(D) above, to the extent that such conflict or breach is reasonably likely to result in a Material Adverse Effect, (iv) no Default or Event of Default has occurred and is continuing, (v) except as disclosed in writing to Purchaser on or before the date hereof, Seller has no knowledge of any change, occurrence, or development exists that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect and (vi) no consent, approval or other action of, or filing by, it with any Governmental Authority or any other Person is required to authorize, or is otherwise required in connection with, the execution, delivery and performance of this Amendment (other than consents, approvals and filings required by it as a result of being a publicly traded company or that have been obtained or made, as applicable). Guarantor hereby represents and warrants to Purchaser that all of the representations and warranties set forth in Article IV of the Guaranty remain true and correct as of the date hereof.

4. Counterparts. This Amendment may be executed by each of the parties hereto in any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart thereof.

**5. GOVERNING LAW. THIS AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS, AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS WITHOUT REGARD TO THE CONFLICT OF LAWS DOCTRINE APPLIED IN SUCH STATE (OTHER THAN SECTION 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).**

6. Expenses. Seller hereby acknowledges and agrees that Seller shall be responsible for and pay all reasonable out-of-pocket costs and expenses of Purchaser in connection with documenting and consummating the modifications contemplated by this Amendment, including, but not limited to, the reasonable fees and expenses of Purchaser's external legal counsel.

7. Reaffirmation of Guaranty. Guarantor acknowledges and agrees that, except as modified hereby, the Guaranty remains unmodified and in full force and effect and enforceable in accordance with its terms.

8. Repurchase Agreement, Guaranty and Transaction Documents in Full Force and Effect. Except as expressly amended hereby, Seller and Guarantor acknowledge and agree that all of the terms, covenants, conditions and obligations, contingent or otherwise, of the Repurchase Agreement, Guaranty and the other Transaction Documents remain unmodified and in full force and effect and are hereby ratified, affirmed and confirmed in all respects. Guarantor hereby agrees and acknowledges that the ratifications, affirmations, confirmations and acknowledgements in the prior sentence are not conditions to the continued effectiveness of the Guaranty. Guarantor agrees that neither such ratification, reaffirmation and confirmation, nor Purchaser's solicitation of such ratification, reaffirmation and confirmation, constitutes a course of dealing giving rise to any obligation or condition requiring a similar or any other ratification or reaffirmation from Guarantor with respect to any subsequent modifications to the Repurchase Agreement or any other Transaction Document.

9. Severability. Each provision of this Amendment shall be considered severable and if for any reason any provision of this Amendment is determined by a court of competent jurisdiction to be invalid, unenforceable or illegal and contrary to existing applicable law or future applicable law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those provisions of this Amendment that are valid. In that case, this Amendment shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of any applicable law, and in the event such term or provision cannot be so limited, this Amendment shall be construed to omit such invalid, unenforceable or illegal provisions.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**GUARANTOR:**

**BRIGHTSPIRE OPERATING COMPANY, LLC**

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**<u>PURCHASER</u>:**

**GOLDMAN SACHS BANK USA**

By: /s/ James Muliawan

Name: James Muliawan

Title: Authorized Person

[GS/CLNC – Signature Page to Third Amendment to Guaranty]

**ACKNOWLEDGED AND AGREED**
**AS OF THE DATE FIRST SET FORTH ABOVE:**

**SELLER:**

**BRIGHTSPIRE CREDIT 6, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**Exhibit 10.32**

**EXECUTION VERSION**

# AMENDMENT NO. 3 TO MASTER REPURCHASE AND SECURITIES CONTRACT

AMENDMENT NO. 3 TO MASTER REPURCHASE AND SECURITIES CONTRACT, dated as of February 17, 2022 (this "Amendment") by and between BrightSpire Credit 8, LLC (f/k/a CLNC Credit 8, LLC), a Delaware limited liability company ("Seller") and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Buyer"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Repurchase Agreement (as defined below).

## RECITALS

WHEREAS, Seller and Buyer are parties to that certain Master Repurchase and Securities Contract, dated as of November 2, 2018 (as amended by Amendment No. 1 to Master Repurchase and Securities Contract, by and between Seller and Buyer, dated as of November 1, 2019, as further amended by that certain Amendment No. 2 to Master Repurchase and Securities Contract, by and between Seller and Buyer, dated as of May 4, 2021, as amended hereby, and as further amended, restated, supplemented or otherwise modified and in effect from time to time, the "Repurchase Agreement");

WHEREAS, Seller and Buyer acknowledge and agree that Buyer and Seller shall not enter into any new LIBOR contracts under the Repurchase Agreement after December 31, 2021; and

WHEREAS, Seller and Buyer have agreed, subject to the terms and conditions hereof, that the Repurchase Agreement shall be amended as set forth in this Amendment; and BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC (f/k/a Credit RE Operating Company, LLC) ("Guarantor") has agreed, subject to the terms and conditions hereof, to make the acknowledgements set forth herein.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

SECTION 1. Repurchase Agreement Amendments. The Repurchase Agreement is hereby amended to delete the red, stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the blue, double underlined text (indicated in the same manner as the following example: underlined text) as attached hereto on Exhibit A. The Exhibits, Schedules and Annexes to the Repurchase Agreement (other than as set forth in Section 2) shall not be modified by this Amendment and shall remain Exhibits, Schedules and Annexes to the Repurchase Agreement.

SECTION 2. Amendments to the Exhibits, Schedules and Annexes to the Repurchase Agreement.

a. Exhibit A to the Repurchase Agreement is hereby amended and restated in its entirety to read as follows: "[RESERVED]."

b. Exhibit B to the Repurchase Agreement is hereby replaced in its entirety with the version thereof attached hereto as Exhibit B to this Amendment.

SECTION 3. Conditions Precedent. This Amendment and its provisions shall become effective on the first date (the "Amendment Effective Date") on which (i) this Amendment is duly executed and delivered by each of Seller, Buyer and Guarantor, (ii) Buyer receives a fully-executed copy of that certain Amendment No. 3 to Fee and Pricing Letter, dated as of the date hereof between Seller and Buyer, and (iii) Buyer receives such other documents as Buyer or counsel to Buyer may reasonably request.

SECTION 4. Representations and Warranties. On and as of the date first above written, Seller hereby represents and warrants to Buyer that (a) it is in compliance with all the terms and provisions set forth in the Repurchase Agreement on its part to be observed or performed, (b) after giving effect to this Amendment, no Default or Event of Default under the Repurchase Agreement has occurred and is continuing, and (c) after giving effect to this Amendment, the representations and warranties contained in Article 9 of the Repurchase Agreement are true and correct in all respects as though made on such date (except for any such representation or warranty that by its terms refers to a specific date other than the date first above written, in which case it shall be true and correct in all respects as of such other date).

SECTION 5. Acknowledgments of Guarantor. Guarantor hereby acknowledges the execution and delivery of this Amendment by Seller and Buyer and agrees that it continues to be bound by that certain Guarantee Agreement, dated as of November 2, 2018 (as may be amended, restated, supplemented or otherwise modified from time to time, the "Guarantee Agreement"), made by Guarantor in favor of Buyer, notwithstanding the execution and delivery of this Amendment and the impact of the changes set forth herein.

SECTION 6. Limited Effect. Except as expressly amended and modified by this Amendment, the Repurchase Agreement and each of the other Repurchase Documents shall continue to be, and shall remain, in full force and effect in accordance with their respective terms; provided, however, that upon the date hereof (a) all references in the Repurchase Agreement to the "Repurchase Documents" shall be deemed to include, in any event, this Amendment, and (b) each reference to the "Repurchase Agreement" in any of the Repurchase Documents shall be deemed to be a reference to the Repurchase Agreement, as amended hereby.

SECTION 7. No Novation, Effect of Agreement. The parties hereto have entered into this Amendment solely to amend the terms of the Repurchase Agreement and do not intend this Amendment or the transactions contemplated hereby to be, and this Amendment and the transactions contemplated hereby shall not be construed to be, a novation of any of the obligations owning by Seller, Guarantor or any of their respective affiliates (the "Repurchase Parties") under or in connection with the Repurchase Agreement or any of the other Repurchase Documents. It is the intention of each of the parties hereto that (i) the perfection and priority of all security interests securing the payment of the obligations of the Repurchase Parties under the Repurchase Agreement are preserved and (ii) the liens and security interests granted under the Repurchase Agreement continue in full force and effect.

SECTION 8. Counterparts. This Amendment may be executed in counterparts, each of which so executed shall be deemed to be an original, but all of such counterparts shall together constitute but one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment in Portable Document Format (.PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart thereof.

SECTION 9. Costs and Expenses. Seller shall pay Buyer's reasonable actual out of pocket costs and expenses incurred in connection with the preparation, negotiation, execution and consummation of this Amendment in accordance with the Repurchase Agreement.

SECTION 10. Waivers. (a) Each of Seller and Guarantor acknowledges and agrees that as of the date hereof it has no defenses, rights of setoff, claims, counterclaims or causes of action of any kind or description against Buyer arising under or in respect of the Repurchase Agreement, the Guarantee Agreement or any other Repurchase Document and any such defenses, rights of setoff, claims, counterclaims or causes of action which may exist as of the date hereof are hereby irrevocably waived, and (b) in consideration of Buyer entering into this Amendment, Seller and Guarantor hereby waive, release and discharge Buyer and Buyer's officers, employees, representatives, agents, counsel and directors from any and all actions, causes of action, claims, demands, damages and liabilities of whatever kind or nature, in law or in equity, now known or unknown, suspected or unsuspected to the extent that any of the foregoing arise out of or from or in any way relating to or in connection with the Repurchase Agreement, the Guarantee Agreement or the other Repurchase Documents, in each case occurring or existing on or prior to the date hereof, including, but not limited to, any action or failure to act under the Repurchase Agreement, the Guarantee Agreement or the other Repurchase Documents on or prior to the date hereof, except, with respect to any such Person being released hereby, any actions, causes of action, claims, demands, damages and liabilities arising out of such Person's gross negligence or willful misconduct in connection with the Repurchase Agreement or the other Repurchase Documents.

SECTION 11. Submission to Jurisdiction. Each party irrevocably and unconditionally (i) submits to the non-exclusive jurisdiction of any United States Federal or New York State court sitting in Manhattan, and any appellate court from any such court, solely for the purpose of any suit, action or proceeding brought to enforce its obligations under this Amendment or relating in any way to this Amendment and (ii) waives, to the fullest extent it may effectively do so, any defense of an inconvenient forum to the maintenance of such action or proceeding in any such court and any right of jurisdiction on account of its place of residence or domicile.

To the extent that either party has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set off or any legal process (whether service or notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) with respect to itself or any of its property, such party hereby irrevocably waives and agrees not to plead or claim such immunity in respect of any action brought to enforce its obligations under this Amendment or relating in any way to this Amendment.

The parties hereby irrevocably waive, to the fullest extent each may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding and irrevocably consent to the service of any summons and complaint and any other process by the mailing of copies of such process to them at their respective address specified in the Repurchase Agreement. The parties hereby agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Section 11 shall affect the right of Buyer to serve legal process in any other manner permitted by law or affect the right of Buyer to bring any action or proceeding against Seller or its property in the courts of other jurisdictions.

SECTION 12. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AMENDMENT.

SECTION 13. GOVERNING LAW. THIS AMENDMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AMENDMENT, THE RELATIONSHIP OF THE PARTIES TO THIS AMENDMENT, AND/OR THE INTERPRETATION AND ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES TO THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS AND DECISIONS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CHOICE OF LAW RULES THEREOF. THE PARTIES HERETO INTEND THAT THE PROVISIONS OF SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW SHALL APPLY TO THIS AMENDMENT.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**BUYER:**

**WELLS FARGO BANK, NATIONAL ASSOCIATION**,
a national banking association

By: /s/ Allen Lewis
Name: Allen Lewis
Title: Managing Director

**SELLER:**

**BRIGHTSPIRE CREDIT 8, LLC**, a Delaware limited liability company

By: /s/ David A. Palamé
Name: David A. Palamé
Title: Vice President

Acknowledged:

**BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC**, a Delaware limited liability company

By: /s/ David A. Palamé
Name: David A. Palamé
Title: Vice President

Exhibit A

[See Attached]

**CONFORMED THROUGH AMENDMENT NO. ~~2~~3**

**MASTER REPURCHASE AND SECURITIES CONTRACT**

**~~CLNC~~BRIGHTSPIRE CREDIT 8, LLC**,

(“Seller”)

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION**,
(“Buyer”)

Dated as of November 2, 2018

TABLE OF CONTENTS

**THIS MASTER REPURCHASE AND SECURITIES CONTRACT**, dated as of November 2, 2018 (as amended, restated, supplemented or otherwise modified and in effect from time to time, (this "Agreement"), is made by and between ~~CLNC~~BRIGHTSPIRE CREDIT 8, LLC (f/k/a CLNC Credit 8, LLC), a Delaware limited liability company, as Seller (as more specifically defined below, ("Seller") and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, as buyer (as more specifically defined below, "Buyer"). Seller and Buyer (each also a "Party" and, collectively, the "Parties") hereby agree as follows:

## ARTICLE 1

## APPLICABILIY

Section 1.01 Applicability. Subject to the terms and conditions of the Repurchase Documents, from time to time during the Revolving Period and at the request of Seller, the Parties may enter into transactions in which Seller agrees to sell, transfer and assign to Buyer certain Assets and all related rights in, and interests related to, such Assets on a servicing released basis, against the transfer of funds by Buyer representing the Purchase Price for such Assets, with a simultaneous agreement by Buyer to transfer such Assets to Seller for subsequent repurchase on the related Repurchase Date, which date shall not be later than the Facility Termination Date, against the transfer of funds by Seller representing the Repurchase Price for such Assets.

## ARTICLE 2

## DEFINITIONS AND INTERPRETATION

Section 2.01 Definitions.

"Accelerated Repurchase Date": Defined in Section 10.02.

"Account Control Agreement": A deposit account control agreement in favor of Buyer with respect to either any bank account related to a Purchased Asset or the Hedge Account, each in form and substance of Exhibit C hereto.

"Actual Knowledge": Defined in the definition of Knowledge.

"Additional Advance": Defined in Section 3.11.

"Additional Advance Notice": Defined in Section 3.11.

"Additional Seller Joinder Agreement": An Additional Seller Joinder Agreement, substantially in the form of Exhibit K, duly executed and delivered by each party thereto.

"Additional Sellers": Any additional party or parties that has executed and delivered an Additional Seller Joinder Agreement.

"Affiliate": (a) When used with respect to Seller, Pledgor, Guarantor or Sponsor, Sponsor or any of Sponsor's Subsidiaries, or (b) when used with respect to any other specified Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with, such Person.

"Affiliated Hedge Counterparty": Buyer, or an Affiliate of Buyer, in its capacity as a party to any Interest Rate Protection Agreement with Seller.

"Agreement": The meaning set forth in the initial paragraph hereof.

"Aggregate Amount Outstanding": On each date of the determination thereof, the total amount owing to Buyer by Seller in connection with all Transactions under this Agreement outstanding on such date.

"Anti-Corruption Law": The U.S. Foreign Corrupt Practices Act of 1977, the UK Bribery Act, the Canadian Corruption of Foreign Public Officials Act or any other law applicable to Seller or any of its Affiliates that prohibits the bribery of foreign officials to gain a business advantage.

"Anti-Money Laundering Laws": The applicable laws or regulations in any jurisdiction in which Seller, Guarantor or any Affiliates of Seller or Guarantor are located or doing business that relate to money laundering, any predicate crime to money laundering or any financial record keeping and reporting requirements related thereto.

"Applicable Percentage": For each Purchased Asset, the applicable percentage determined by Buyer for such Purchased Asset on the Purchase Date therefor as specified in the most recent Confirmation entered into in respect of such Purchased Asset, but in no event greater than the Maximum Applicable Percentage.

"Applicable SOFR": With respect to each SOFR Based Transaction, either the SOFR Average or Term SOFR, as applicable, as designated in the related Confirmation therefor, or if such Applicable SOFR is not specified in the related Confirmation for such SOFR Based Transaction, as specified with respect to such Transaction in the related notice of Rate Conversion delivered by Buyer in accordance with Section 12.01(d).

"Appraisal": An appraisal of the related Mortgaged Property conducted by an Independent Appraiser in accordance with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, and, in addition, certified by such Independent Appraiser as having been prepared in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation, addressed to (either directly or pursuant to a reliance letter in favor of Buyer or reliance language in such Appraisal running to the benefit of Buyer as a successor and/or assign) and reasonably satisfactory to Buyer.

"Approved Representation Exception": With respect to any Purchased Asset, any Representation Exception furnished by Seller to Buyer and approved in writing by Buyer in its discretion which approval shall be evidenced by Buyer's execution of a Confirmation for such Purchased Asset, solely to the extent expressly set forth therein.

“Asset”: Any Whole Loan or Senior Interest, the Mortgaged Property for which is included in the categories for Types of Mortgaged Property, but excluding any real property acquired by Seller through foreclosure or deed in lieu of foreclosure, distressed debt or any Equity Interest issued by a single purpose entity organized to issue collateralized debt or loan obligations.

“Assignment and Acceptance”: Defined in Section 18.07(c).

“Bailee”: With respect to any Transaction involving a Wet Mortgage Asset, (i) Ropes & Gray LLP, (ii) a national title insurance company or nationally-recognized real estate counsel acceptable to Buyer or (iii) any other entity approved by Buyer in its sole discretion, which may be a title company, escrow company or attorney in accordance with local law and practice in the appropriate jurisdiction of the related Wet Mortgage Asset.

“Bankruptcy Code”: Title 11 of the United States Code, as amended.

“Basic Mortgage Asset Documents”: Means the following original (except as otherwise permitted in Section 2.01 of the Custodial Agreement), fully executed and complete documents: (1) the Mortgage Note and/or, in the case of a Senior Interest consisting of a participation interest, the related participation certificate, with a certified true and correct copy of the related Mortgage Note, (2) the Mortgage and UCC-1 financing statements executed in connection therewith, (3) the assignment of leases and rents, if any, (4) the Interim Assignment Documents and (5) the Blank Assignment Documents.

“Benchmark”: ~~Initially, LIBOR~~(A) With respect to any LIBOR Based Transaction, subject to Section 12.01(a) hereof, USD LIBOR, (B) with respect to any SOFR Based Transaction for which the Applicable SOFR is initially the SOFR Average (including, without limitation, any such SOFR Based Transaction resulting from a Rate Conversion pursuant to Section 12.01(a) for which the Applicable SOFR designated in the related notice of Rate Conversion is the SOFR Average), initially, 30-Day SOFR Average; provided that if a Benchmark Transition Event ~~or an Early Opt-in Election, as applicable,~~and its related Benchmark Replacement Date have occurred with respect to 30-Day SOFR Average or the then-current Benchmark in accordance with Section 12.01(b) for purposes of this clause (B), then, for purposes of this clause (B), “Benchmark” shall mean the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 12.01, and (C) with respect to any SOFR Based Transaction for which the Applicable SOFR is initially Term SOFR (including, without limitation, any such SOFR Based Transaction resulting from a Rate Conversion pursuant to Section 12.01(a) for which the Applicable SOFR designated in the related notice of Rate Conversion is Term SOFR), initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to ~~LIBOR~~the Term SOFR Reference Rate or the then-current Benchmark~~, then~~ in accordance with Section 12.01(b) for purposes of this clause (C), then, for purposes of this clause (C), “Benchmark” ~~means~~shall mean the applicable Benchmark Replacement to the extent that such Benchmark Replacement has ~~become effective~~replaced such prior benchmark rate pursuant to clause (~~a~~b) of Section 12.01.

“Benchmark Replacement”: ~~The~~With respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by Buyer as a replacement of the applicable then-current Benchmark as of the Benchmark Replacement Date:

(1) (~~1~~A) if such then-current Benchmark is the 30-Day SOFR Average, the sum of: (~~a~~i) Term SOFR and (~~b~~ii) the Benchmark Replacement Adjustment; or

(~~2~~B) if such then-current Benchmark is the Term SOFR Reference Rate, the sum of: (~~a~~i) ~~Compounded~~ SOFR Average and (~~b~~ii) the Benchmark Replacement Adjustment; or

(2) ~~(3)~~ the sum of: (a) the alternate benchmark rate ~~of interest~~ that has been selected by Buyer as the replacement ~~(including, without limitation, a temporary replacement determined by Buyer pursuant to Section 12.01(d))~~ for the then-current Benchmark ~~for the Corresponding Tenor~~ and (b) the related Benchmark Replacement Adjustment;

provided that, in ~~the~~each case ~~of clauses (1) and (2) above~~, if such ~~rate, or the underlying rates component thereof, is or are displayed on a screen or other information service that publishes such rate or rates from time to time as selected by Buyer in its reasonable discretion. If the~~ Benchmark Replacement as so determined ~~pursuant to clause (1), (2) or (3) above~~ would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Repurchase Documents.

“Benchmark Replacement Adjustment”:

~~(1) for purposes~~With respect to any replacement of ~~clauses (1) and (2) of the definition of “~~the then-current Benchmark ~~Replacement,” the first alternative set forth in the order below that can be determined by Buyer as of the Benchmark Replacement Date:~~

(x) ~~the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero), that has been selected or recommended by the Relevant Governmental Body for the~~(as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable) with an Unadjusted Benchmark Replacement;~~ and~~

(y) ~~the spread adjustment (which may be a positive or negative value or zero) that would apply to the fallback rate for a derivative transaction referencing the~~ ISDA Definitions ~~to be effective upon an index cessation event with respect to~~ USD LIBOR for the ~~Corresponding Tenor; and~~

~~(2) for purposes of clause (3) of the definition of “Benchmark Replacement~~,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero), that has been selected by Buyer ~~for the Corresponding Tenor;~~

~~provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by Buyer in its reasonable discretion~~.

“Benchmark Replacement Conforming Changes”: With respect to any Benchmark Replacement or Rate Conversion, any technical, administrative or operational changes (including changes to the definition of “Business Day”, “Pricing Rate,” the definition of “Pricing Period,” timing and frequency of determining rates and making payments of Price Differential, prepayment provisions, early repurchases, and other technical, administrative or operational matters) that Buyer decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement or Rate Conversion, and to permit the administration thereof by Buyer in a manner substantially consistent with market practice (or, if Buyer decides that adoption of any portion of such market practice is not administratively feasible or if Buyer determines that no market practice for the administration of the Benchmark Replacement or Rate Conversion exists, in such other manner of administration as Buyer decides is reasonably necessary in connection with the administration of this Agreement and the other Repurchase Documents).

“Benchmark Replacement Date”: ~~The~~With respect to any Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable), the earliest to occur of the following events with respect to ~~the then-current~~such Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of ~~the~~such Benchmark permanently or indefinitely ceases to provide ~~the~~such Benchmark; or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date ~~of~~on which such Benchmark has been determined and announced by the regulatory supervisor for the administrator of such Benchmark to be no longer representative; provided, that such non-representativeness will be determined by reference to the ~~public~~most recent statement or publication ~~of information~~ referenced ~~therein; or~~in such clause (3) even if such Benchmark continues to be provided on such date.

~~(3) in the case of an Early Opt-in Election, the fifth (5th) Business Day after the Rate Election Notice is provided to Seller.~~

~~For the avoidance of doubt, if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination.~~

“Benchmark Transition Event”: ~~The~~With respect to any Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable), the occurrence of one or more of the following events with respect to ~~the then-current~~such Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of ~~the~~such Benchmark announcing that such administrator has ceased or will cease to provide ~~the~~such Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide ~~the~~such Benchmark;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of ~~the~~such Benchmark, the ~~U.S.~~Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for ~~the~~such Benchmark, a resolution authority with jurisdiction over the administrator for ~~the~~such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for ~~the~~such Benchmark, which states that the administrator of ~~the~~such Benchmark has ceased or will cease to provide ~~the~~such Benchmark permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide ~~the~~such Benchmark; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of ~~the~~such Benchmark announcing that ~~the~~such Benchmark is ~~no longer~~not, or as of a specified future date will not be, representative.

"Beneficial Ownership Certification": A certification regarding beneficial ownership as required by the Beneficial Ownership Regulation in a form as agreed to by Buyer.

"Beneficial Ownership Regulation": Means 31 C.F.R. § 1010.230.

"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).

"Blank Assignment Documents": Defined in Section 6.02(k).

"Book Value": For each Purchased Asset, as of any date, an amount, as certified by Seller in the related Confirmation, equal to the lesser of (a) the outstanding principal amount or par value thereof as of such date, and (b) the price that Seller initially paid or advanced in respect thereof *plus* any additional amounts advanced by Seller that were funded in connection with Seller's future funding obligations under the related Purchased Asset Documents *minus* Principal Payments received by Seller and as further reduced by losses realized and write-downs taken by Seller, together with all other reductions in the unpaid balance due in connection with the related Whole Loan (including, with respect to any Senior Interest that is a participation, any reduction in the principal balance of the related Whole Loan).

"Business Day": Any day other than (a) a Saturday or a Sunday, (b) a day on which banks in the States of New York, Minnesota or North Carolina are authorized or obligated by law or executive order to be closed, (c) any day on which the New York Stock Exchange, the Federal Reserve Bank of New York or Custodian is authorized or obligated by law or executive order to be closed, or (d) if the term "Business Day" is used in connection with the determination of LIBOR, a day on which dealings in Dollar deposits are not carried on in the London interbank market.

"Buyer": Wells Fargo Bank, National Association, in its capacity as Buyer under this Agreement and the other Repurchase Documents, together with its successors and permitted assigns.

"Capital Lease Obligations": With respect to any Person, all obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) property to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP, and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Capital Stock": Any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent equity ownership interests in a Person which is not a corporation, including, without limitation, any and all member or other equivalent interests (certificated or uncertificated) in any limited liability company, and any and all partnership or other equivalent interests in any partnership or limited partnership, and any and all warrants or options to purchase any of the foregoing.

"Cause": With respect to an Independent Director or Independent Manager, (i) acts or omissions by such Independent Director or Independent Manager that constitute willful disregard of, or bad faith or gross negligence with respect to, such Independent Director or Independent Manager's duties under the applicable by-laws, limited partnership agreement or limited liability company agreement, (ii) that such Independent Director or Independent Manager has engaged in or has been charged with, or has been convicted of, fraud or other acts constituting a crime under any law applicable to such Independent Director or Independent Manager, (iii) that such Independent Director or Independent Manager is unable to perform his or her duties as Independent Director or Independent Manager due to death, disability or incapacity, or (iv) that such Independent Director or Independent Manager no longer meets the definition of Independent Director or Independent Manager.

~~"Compounded SOFR": The compounded average of daily SOFRs for the Corresponding Tenor, with the rate, or methodology for this rate, and conventions for this rate (which may include compounding in advance or compounding in arrears with a lookback and/or suspension period as a mechanism to determine the Price Differential amount payable prior to the end of each Pricing Period) being established by Buyer in accordance with:~~

~~(1) the rate, or methodology for this rate, and conventions for this rate selected or recommended by the Relevant Governmental Body for determining compounded SOFR (either in advance or arrears, as applicable); provided that:~~

(2) ~~if, and to the extent that, Buyer determines that Compounded SOFR cannot be determined in accordance with clause (1) above, then the rate, or methodology for this rate, and conventions for this rate that Buyer determines are substantially consistent with at least five (5) currently outstanding U.S. dollar-denominated syndicated or bilateral credit facilities at~~

~~such time (as a result of amendment or as originally executed) that are publicly available for review;~~

~~provided, further, that if Buyer decides that any such rate, methodology or convention determined in accordance with clause (1) or clause (2) is not administratively feasible for Buyer, then Compounded SOFR will be deemed unable to be determined for purposes of the definition of "Benchmark Replacement."~~

~~"Corresponding Tenor": With respect to a Benchmark Replacement, an approximately one-month tenor (including overnight) (disregarding Business Day adjustment).~~

"CFTC": The U.S. Commodity Futures Trading Commission.

"CFTC Regulations": The rules, regulations, orders and interpretations published or issued by the CFTC, as amended.

"Change of Control": The occurrence of any of the following events: (a) any "person" or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) (other than any Affiliate of Colony Capital Operating Company, LLC) shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the beneficial owner, directly or indirectly, of 49% or more of the total voting power of all classes of Capital Stock of Sponsor entitled to vote generally in the election of the directors; (b) Sponsor shall cease to own and Control, of record, beneficially and directly, 51% of the outstanding Capital Stock of Guarantor;
(c) Guarantor shall cease to own and Control, of record, beneficially and either directly or indirectly, 100% of the outstanding Capital Stock of Pledgor and each Intermediate Entity; or (d) Pledgor shall cease to own and control, of record, beneficially and directly, 100% of the outstanding Capital Stock of Seller.

"Class": With respect to an Asset, such Asset's classification as either a Whole Loan or a Senior Interest.

"Cleared Swap": Any Interest Rate Protection Agreement that is cleared by a DCO.

"Closing Certificate": A true and correct certificate in the form of Exhibit D, executed by a Responsible Officer of Seller.

"Closing Date": November 2, 2018.

"Code": The Internal Revenue Code of 1986.

"Competitor": The meaning set forth in the Fee Letter, which definition is incorporated herein by reference.

"Commodity Exchange Act": The Commodity Exchange Act, as amended.

"Compliance Certificate": A true and correct certificate in the form of Exhibit E, executed by a Responsible Officer of Seller and Guarantor.

"Confirmation": A purchase confirmation in the form of Exhibit B, duly completed, executed and delivered by Seller and Buyer in accordance with either Section 3.01 or Section 4.01(d).

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

"Contractual Obligation": With respect to any Person, any provision of any securities issued by such Person or any indenture, mortgage, deed of trust, deed to secure debt, contract, undertaking, agreement, instrument or other document to which such Person is a party or by which it or any of its property or assets are bound or are subject.

"Control": With respect to any Person, the direct or indirect possession of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling," "Controlled" and "under common Control" have correlative meanings.

"Controlled Account Agreement": The control agreement with respect to the Waterfall Account, dated as of the date of this Agreement, among Seller, Buyer and Deposit Account Bank.

"Core Purchased Assets": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Credit Event": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Current Mark-to-Market Value": For any Purchased Asset as of any date, the market value for such Purchased Asset as of such date as determined by Buyer in its sole discretion.

"Custodial Agreement": The Custodial Agreement, dated as of the date hereof, among Buyer, Seller and Custodian, as the same may be amended, modified, waived, supplemented, extended, replaced or restated from time to time.

"Custodian": Wells Fargo Bank, National Association, or any successor permitted by the Custodial Agreement.

"Debt Yield": The meaning set forth in the Fee Letter, which definition is incorporated herein by reference.

"Default": Any event that, with the giving of notice or the lapse of time, or both, would become an Event of Default.

"Default Rate": As of any date, the Pricing Rate in effect on such date *plus* 500 basis points (5.00%).

"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.

"Defaulted Asset": Any Asset or Purchased Asset and, in the case of any Senior Interest, any related Whole Loan, as applicable, (a) that is thirty (30) or more days (or, in the case of payments due at maturity, one (1) day) delinquent in the payment of principal, interest, fees, distributions or any other amounts payable under the related Purchased Asset Documents, in each case, without regard to any waivers or modifications of, or amendments to, the related Purchased Asset Documents, other than those that were disclosed in writing to Buyer prior to the Purchase Date of the related Purchased Asset, unless consented to by Buyer in accordance with the terms of this Agreement, (b) for which there is a Representation Breach with respect to such Asset or Purchased Asset that has not been cured, as determined by Buyer, other than an Approved Representation Exception, (c) for which there is a material non-monetary default under the related Purchased Asset Documents beyond any applicable notice or cure period in each case, without regard to any waivers or modifications of, or amendments to, the related Purchased Asset Documents other than those that were disclosed in writing to Buyer prior to the Purchase Date of the related Purchased Asset or expressly consented to in writing by Buyer in its sole discretion, (d) an Insolvency Event has occurred with respect to the Underlying Obligor or, in the case of any Senior Interest, any co-participant or any Person having an interest in any Purchased Asset or any related Mortgaged Property that is junior to, *pari passu* with or senior to, in right of payment or priority, the rights of Buyer with respect thereto, (e) with respect to which there has been an extension, amendment, waiver, termination, rescission, cancellation, release or other modification (other than (i) a Material Modification consented to in writing by Buyer pursuant to Section 8.04 or (ii) any such modification that is not a Material Modification) to the terms of, or any collateral, guaranty or indemnity for, or the exercise of any material right or remedy of a holder (including all lending, corporate and voting rights, remedies, consents, approvals and waivers) of, any related loan or participation document (in each case including, without limitation, any such document with respect to any Whole Loan related to any Senior Interest) that, in each case, has an adverse effect on the value or cash-flow of such asset, as determined by Buyer, or (f) for which Seller or a Servicer has received notice of the foreclosure or proposed foreclosure of any Lien on the related Mortgaged Property; provided that with respect to any Senior Interest, in addition to the foregoing such Senior Interest will also be considered a Defaulted Asset to the extent that the related Whole Loan would be considered a Defaulted Asset as described in this definition provided, further, in each case, without regard to any waivers or modifications of, or amendments to, the related Purchased Asset Documents other than waivers, modifications or amendments which (i) are Material Modification(s) expressly consented to in writing by Buyer (which consent shall be given or withheld in Buyer's sole discretion) or (ii) do not constitute Material Modifications hereunder.

"Delaware LLC Act": Chapter 18 of the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101 et seq., as amended.

"Deposit Account Bank": Wells Fargo Bank, National Association, or any other bank approved by Buyer.

"Derivatives Contract": Any rate swap transaction, basis swap, credit derivative transaction, forward rate transaction, commodity swap, commodity option, forward commodity contract, equity or equity index swap or option, bond or bond price or bond index swap or option or forward bond or forward bond price or forward bond index transaction, interest rate option, forward foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross–currency rate swap transaction, currency option, spot contract, or any other similar transaction or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, including any obligations or liabilities thereunder.

"Dividing LLC": A Delaware limited liability company that is effecting a Division pursuant to and in accordance with Section 18-217 of the Delaware LLC Act.

"Division": The division of a Dividing LLC into two or more domestic limited liability companies pursuant to and in accordance with Section 18-217 of the Delaware LLC Act.

"Division LLC": A surviving company, if any, and each resulting company, in each case that is the result of a Division.

"Dollars" and "$": Lawful money of the United States of America. "Early Repurchase Date":

Defined in Section 3.04.

"Early Opt-in Effective Date": With respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Seller.

"Early Opt-in Election": The ~~occurrence of:~~

~~(1) a determination~~election by Buyer ~~that at least five (5) currently outstanding U.S. dollar-denominated syndicated or bilateral credit facilities to which Buyer is a party at such time contain (as a result of amendment or as originally executed) as a benchmark interest rate, in lieu of LIBOR, Term SOFR or Compounded SOFR plus (if applicable as a result of~~to trigger a fallback from ~~another benchmark interest rate) a~~the then-current Benchmark ~~Replacement Adjustment, and~~

~~(2) the election by Buyer to declare that an Early Opt-in Election has occurred~~ and the provision by Buyer of written notice of such election to Seller ~~(the "Rate Election Notice")~~.

"Eligible Asset": An Asset:

(a) that has been approved as a Purchased Asset by Buyer; provided that, following an approval of an Asset as a Purchased Asset, Buyer may not subsequently revoke such approval pursuant to this clause (a) unless there had been a material misstatement or omission by Seller contained in information provided to Buyer on or prior to the related Purchase Date;

(b) with respect to which no Representation Breach exists;

(c) that is not a Defaulted Asset;

(d) that pays interest at either a fixed rate (subject to hedging and mark to market terms and provisions that are acceptable to Buyer in its sole discretion as of the Purchase Date), or at a floating rate with a base rate of either 1-month LIBOR or based on SOFR or the applicable Benchmark Replacement;

(e) with respect to which there are no future funding obligations on the part of Seller other than any future funding obligations expressly disclosed to Buyer prior to the related Purchase Date and specified in the Confirmation for the applicable Purchased Asset, which future funding obligations are and shall remain at all times solely the obligations of Seller (provided that Seller may from time to time request Future Funding Transactions that Buyer may agree to fund, or decline to fund, in Buyer's sole discretion in accordance with Section 3.10);

(f) that satisfies, on the related Purchase Date, the applicable Minimum Purchased Asset Debt Yield Requirement and the applicable Maximum Purchased Asset PPV Requirement for such Asset;

(g) whose Mortgaged Property is not a hotel, unless (i) the hotel is a national flag hotel, (ii) Buyer has received a copy of the franchise agreement and related documents for operation of the hotel under the national flag, all reports issued by the franchisor and a comfort letter from the franchisor running to the benefit of successors and assigns of the lender, (iii) the hotel management is acceptable to Buyer, and (iv) the hotel manager has entered into a subordination of management agreement, all of which are acceptable to Buyer;

(h) where the underlying Mortgaged Property is located in the United States, the Underlying Obligors are domiciled in the United States, and all obligations under the Asset and the Purchased Asset Documents are denominated and payable in Dollars;

(i) the Mortgaged Property is not under construction, conversion or rehabilitation (other than, in each case, as and to the extent expressly approved by Buyer in the related Confirmation for the applicable Purchased Asset and subject to all terms and conditions of such Confirmation and the other terms of this Agreement), and is not a condominium regime established for sale of individual units, and is not under conversion to another type of Asset that represents a subordinated interest in the related Mortgaged Property;

(j) with respect to such Asset, none of the Underlying Obligors (and any of their respective Affiliates) related to such Asset are Sanctioned Targets;

(k) that does not involve an Equity Interest of Seller, Sponsor, any Intermediate Entity, Pledgor, or Guarantor or any Affiliate of Seller, Sponsor, any Intermediate Entity, Pledgor, or Guarantor that would result in (i) an actual or potential conflict of interest, (ii) an affiliation with an Underlying Obligor which results or could result in the loss or impairment of any material rights of the holder of the related Purchased Asset; provided, Seller shall disclose to Buyer before the Purchase Date each Equity Interest held or to be held by Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor or any Affiliate of Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor with respect to such related Purchased Asset whether or not it satisfies either of the preceding clauses (i) or (ii);

(l) that is secured by or, with respect to a Senior Interest, the related Whole Loan is secured by a perfected, first-priority security interest on either a "fully stabilized" or a "light transitional" commercial, retail, industrial, office, self-storage, mixed-use, hospitality or multi-family property, in each case as determined by Buyer in its sole discretion;

(m) for which all Purchased Asset Documents have been delivered to Custodian in accordance with the terms hereof and the Custodial Agreement;

(n) as to which Seller has delivered (i) an Irrevocable Redirection Notice executed in blank to Custodian on behalf of Buyer and (ii) to the extent such Underlying Obligor is not required by the related Purchased Asset Documents to remit Income to the Servicer, a fully executed Irrevocable Redirection Notice to either Buyer (or its designee including a Bailee) or Custodian on behalf of Buyer;

(o) as to which all escrows, reserves and other collateral accounts are subject to a perfected security interest in favor of Seller, and each such security interest has been assigned to Buyer;

(p) as to which all Retained Interests, funding obligations or any other obligations of any kind remain, in each case, the sole obligation of Seller; and

(q) if any portion of the Mortgaged Property related to such Asset is subject to a partial release, Buyer shall have received, on or before the effective date of such partial release, an Appraisal specifying the value of the Mortgaged Property which remains as security for the related Asset following the date of consummation for such partial release.

provided, that, notwithstanding the failure of an Asset or Purchased Asset to conform to the requirements of this definition, Buyer may, subject to such terms, conditions and requirements and Applicable Percentage adjustments (if any) as Buyer may require and as set forth in a duly executed Confirmation, designate in writing any such non-conforming Asset or Purchased Asset as an Eligible Asset, which designation (1) may include a temporary or permanent asset-specific waiver of one or more Eligible Asset requirements, but only to the extent evidenced by the execution of a Confirmation with the related exception(s) expressly set forth therein, and (2) shall not be deemed a waiver of the requirement that all other Assets and Purchased Assets must be Eligible Assets (including any Assets that are similar or identical to the Asset or Purchased Asset subject to the waiver).

"Eligible Assignee": Any of the following Persons designated by Buyer: (a) a bank, financial institution, pension fund, insurance company or similar Person, an Affiliate of any of the foregoing, and an Affiliate of Buyer; provided that, so long as no monetary or material non-monetary Default or Event of Default has occurred and is continuing, no Competitor or Affiliates of Underlying Obligors (other than any Affiliate of an Underlying Obligor that is an Affiliate of Buyer) shall be deemed to be an Eligible Assignee within this clause (a), and (b) any other Person to which Seller has consented; provided, that such consent of Seller shall not be unreasonably withheld, delayed or conditioned (except with respect to Competitors or Affiliates of Underlying Obligors (other than any Affiliate of an Underlying Obligor that is an Affiliate of Buyer), in which case Seller's consent may be given or withheld in its sole and absolute discretion), and shall not in any case be required at any time when a monetary Default, a material non-monetary Default or any Event of Default exists.

"Environmental Laws": Any federal, state, foreign or local statute, law, rule, regulation, ordinance, code, guideline, written policy and rule of common law now or hereafter in effect, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, employee health and safety or hazardous materials, including CERCLA, RCRA, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Clean Air Act, the Safe Drinking Water Act, the Oil Pollution Act of 1990, the Emergency Planning and the Community Right-to-Know Act of 1986, the Hazardous Material Transportation Act, the Occupational Safety and Health Act, and any state and local or foreign counterparts or equivalents.

"Equity Interests": With respect to any Person, (a) any share, interest, participation and other equivalent (however denominated) of Capital Stock of (or other ownership, equity or profit interests in) such Person, (b) any warrant, option or other right for the purchase or other acquisition from such Person of any of the foregoing, (c) any security convertible into or exchangeable for any of the foregoing, and (d) any other ownership or profit interest in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such share, warrant, option, right or other interest is authorized but unissued on any date.

"ERISA": The Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder. Section references to ERISA are to ERISA, as in effect at the date of this Agreement and, as of the relevant date, any subsequent provisions of ERISA, amendatory thereof, supplemental thereto or substituted therefor.

"ERISA Affiliate": Any trade or business (whether or not incorporated) that is a member of Seller's, Sponsor's, any Intermediate Entity's, Pledgor's or Guarantor's controlled group or under common control with Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor, within the meaning of Section 414 of the Code.

"Event of Default": Defined in Section 10.01.

"Exchange Act": The Securities Exchange Act of 1934, as amended.

"Excluded Taxes": Any of the following Taxes imposed on or with respect to Buyer or required to be withheld or deducted from a payment to Buyer: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of Buyer being organized under the laws of, or having its principal office or the office from which it books the Transactions located in, the jurisdiction imposing such Taxes (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of Buyer with respect to an interest in the Repurchase Obligations pursuant to a law in effect on the date on which such Buyer (i) acquires such interest in the Repurchase Obligations or (ii) changes the office from which it books the Transactions, except in each case to the extent that, pursuant to Section 12.06, amounts with respect to such Taxes were payable either to such Buyer's assignor immediately before such Buyer became a Party hereto or to such Buyer immediately before it changed the office from which it books the Transactions, (c) Taxes attributable to Buyer's failure to comply with Section 12.06(e) and (d) any U.S. federal withholding Taxes imposed under FATCA.

"Exit Fee": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Extension Conditions": Defined in Section 3.06.

"Extension Fee": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Extension Period": Defined in Section 3.06.

"Facility Debt Yield Test": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Facility Termination Date": The earliest to occur of (a) May 4, 2024, as such date may be extended pursuant to Section 3.06, (b) any Accelerated Repurchase Date, and (c) any date on which the Facility Termination Date shall otherwise occur in accordance with the provisions hereof or Requirements of Law..

"FATCA": Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"FCM": A futures commission merchant subject to regulation under the Commodity Exchange Act.

"FDIA": Defined in Section14.03.

"FDICIA": Defined in Section 14.04.

"Fee Letter": The fee and pricing letter, dated as of the date hereof, between Buyer and Seller, as amended, modified, waived, supplemented, extended, restated or replaced from time to time.

"Fitch": Fitch, Inc. or, if Fitch, Inc. is no longer issuing ratings, another nationally recognized rating agency reasonably acceptable to Buyer.

"Flex Purchased Assets": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Floor": The greater of (a) zero (0) and (b) such higher amount as may be specified with respect to any Transaction in the related Confirmation (or Amended and Restated Confirmation, as applicable).

"Foreign Buyer": A Buyer that is not a U.S. Person.

"Future Funding Amount": With respect to any Purchased Asset for which a Future Funding Transaction has been requested by Seller and approved by Buyer pursuant to Section 3.10, the amount funded by Buyer in connection with such Future Funding Transaction; provided that in no event shall a Future Funding Amount exceed the product of (a) the amount that Seller is funding as a post-closing advance on the related Future Funding Date as required by the related Purchased Asset Documents relating to such Purchased Asset, and (b) the Maximum Applicable Percentage for such Purchased Asset; provided, in no event shall the aggregate amount so requested by Seller exceed the amount of future funding set forth on the related Confirmation for the initial Transaction relating to such Purchased Asset, *minus* all previous Future Funding Amounts funded by Buyer relating to such Purchased Asset.

"Future Funding Confirmation": Defined in Section 3.10(i).

"Future Funding Date": With respect to any Purchased Asset for which a Future Funding Transaction has been requested by Seller and approved by Buyer, the date on which Seller is required to fund a Future Funding Amount pursuant to the Purchased Asset Documents relating to such Purchased Asset.

"Future Funding Request Package": With respect to one or more Future Funding Transactions, the following, to the extent applicable and available, unless any such items were previously delivered to Buyer and have not been modified since the date of each such delivery:
(a) the related request for advance, executed by the related Underlying Obligor (which shall include either therein or separately evidence of Seller's approval of the related Future Funding Transaction), and any other documents that ~~require~~are required to be delivered to Seller pursuant to ~~fund~~the related Purchased Asset Documents in connection with such future funding advance; (b) ~~-~~the related affidavit executed by the related Underlying Obligor delivered in accordance with the Purchased Asset Documents, and any other related documents; and (c) to the ~~executed fund control agreement (or the executed escrow agreement, if funding through escrow); (d) copies of all relevant trade contracts; (e) the title policy endorsement for the advance; (f) copies of any tenant leases; (g) copies of any service contracts; (h~~extent available and requested by Buyer, (i) updated financial statements, operating statements and rent rolls~~;~~, (ii) ~~evidence of required~~

~~insurance; (j)~~ engineering reports and updates to the engineering reports~~;~~, and (~~k~~iii) ~~updates, if applicable, to the~~an updated Underwriting Package~~ for the related Purchased Asset; and (l) copies of any additional documentation as required in connection therewith, or as otherwise requested by Buyer~~.

"Future Funding Transaction": Any Transaction approved by Buyer pursuant to Section 3.10.

"GAAP": Generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

"Governing Documents": With respect to any Person, its articles or certificate of incorporation or formation, by-laws, partnership, limited liability company, memorandum and articles of association, operating or trust agreement and/or other organizational, charter or governing documents.

"Governmental Authority": Any (a) national or federal government, (b) state, regional or local or other political subdivision thereof, (c) central bank or similar monetary or regulatory authority, (d) Person, agency, authority, instrumentality, court, regulatory body, central bank or other body or entity exercising executive, legislative, judicial, taxing, quasi–judicial, quasi–legislative, regulatory or administrative functions or powers of or pertaining to government, (e) court or arbitrator having jurisdiction over such Person, its Affiliates or its assets or properties, (f) stock exchange on which shares of stock of such Person are listed or admitted for trading, (g) accounting board or authority that is responsible for the establishment or interpretation of national or international accounting principles, in each case whether foreign or domestic, and (h) supra-national body such as the European Union or the European Central Bank.

"Guarantee Agreement": The Guarantee Agreement dated as of the date hereof, made by Guarantor in favor of Buyer.

"Guarantee Obligation": With respect to any Person (the "guaranteeing person"), any obligation of (a) the guaranteeing person or (b) another Person (including any bank under any letter of credit) to induce the creation of the obligations for which the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends, Contractual Obligation, Derivatives Contract or other obligations or Indebtedness (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation, or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term "Guarantee Obligation" shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the maximum stated amount of the primary obligation relating to such Guarantee Obligation (or, if less, the maximum stated liability set forth in the instrument embodying such Guarantee Obligation). In the absence of any stated amount or stated liability of a guaranteeing person, the amount of such Guarantee Obligation shall be such guaranteeing person's maximum anticipated liability in respect thereof as reasonably determined by Buyer.

"Guarantor": BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC (f/k/a Credit RE Operating Company, LLC), a Delaware limited liability company.

"Hedge Account": The deposit account, established at Deposit Account Bank, in the name of Sellers, pledged to Buyer and subject to an Account Control Agreement.

"Hedge Counterparty": Either (a) an Affiliated Hedge Counterparty, or (b) or any other counterparty, approved by Buyer, to any Interest Rate Protection Agreement with Seller; provided that in the case of a Cleared Swap, each reference in this Agreement to the Hedge Counterparty shall instead be a reference to the related DCO and; provided, further, that, in either case such agreement contains a consent satisfactory to Buyer to the collateral assignment to Buyer of all of the rights (but none of the obligations) of Seller thereunder.

"Hedge Required Asset": A Purchased Asset that has a fixed rate of interest or return, or any other Purchased Asset that may be designated as such by Buyer on the Purchase Date.

"Hotel Asset": Any Purchased Asset that is secured by (or with respect to any Senior Interest, the related Whole Loan is secured by) one or more Mortgaged Properties that are hotel properties.

"Income": With respect to any Purchased Asset, all of the following (in each case with respect to the entire par amount of the Asset represented by such Purchased Asset and not just with respect to the portion of the par amount represented by the Purchase Price advanced against such Asset) without duplication: (a) all Principal Payments, (b) all Interest Payments, and (c) all other income, distributions, receipts, payments, collections, prepayments, recoveries, proceeds (including insurance and condemnation proceeds) and other payments or amounts of any kind paid, received, collected, recovered or distributed on, in connection with or in respect of such Purchased Asset, including Principal Payments, Interest Payments, principal and interest payments, prepayment fees, extension fees, exit fees, defeasance fees, transfer fees, make whole fees, late charges, late fees and all other fees or charges of any kind or nature, premiums, yield maintenance charges, penalties, default interest, dividends, gains, receipts, allocations, rents, interests, profits, payments in kind, returns or repayment of contributions, net sale, foreclosure, liquidation, securitization or other disposition proceeds, insurance payments, settlements and proceeds; provided, that any amounts that under the applicable Purchased Asset Documents are required to be deposited into and held in escrow or reserve to be used for a specific purpose, such as taxes and insurance, shall not be included in the term "Income" unless and until (i) an event of default exists under such Purchased Asset Documents, (ii) the holder of the related Purchased Asset has exercised or is entitled to exercise rights and remedies with respect to such amounts,

(iii) such amounts are no longer required to be held for such purpose under such Purchased Asset Documents, or (iv) such amounts may be applied to all or a portion of the outstanding indebtedness under such Purchased Asset Documents; and provided, further, however, that Income shall not include any servicing fees that are permitted and actually retained by the related Servicer in accordance with the express terms of the related Servicing Agreement and any applicable Servicer Notice.

"Indebtedness": With respect to any Person at a particular time, without duplication, the following to the extent they are included as indebtedness or liabilities in accordance with GAAP:

(a) obligations created, issued or incurred by such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of property to another Person subject to an understanding or agreement, contingent or otherwise, to repurchase such property from such Person);

(b) obligations of such Person to pay the deferred purchase or acquisition price of property or services, other than trade accounts payable (other than for borrowed money) arising, and accrued expenses incurred, in the ordinary course of business so long as such trade accounts payable are payable within sixty (60) days of the date the respective goods are delivered or the respective services are rendered;

(c) Indebtedness of others secured by a lien on the property of such Person, whether or not the respective Indebtedness so secured has been assumed by such Person;

(d) obligations (contingent or otherwise) of such Person in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for the account of such Person;

(e) Capital Lease Obligations of such Person;

(f) obligations of such Person under repurchase agreements, sale/buy-back agreements or like arrangements;

(g) Guarantee Obligations by such Person;

(h) all obligations of such Person incurred in connection with the acquisition or carrying of fixed assets by such Person;

(i) Indebtedness of general partnerships of which such Person is a general partner; and

(j) all net liabilities or obligations under any interest rate swap, interest rate cap, interest rate floor, interest rate collar or other hedging instrument or agreement. "Indemnified Amounts":

Defined in Section 13.01(a). "Indemnified Persons": Defined in Section 13.01(a).

"Indemnified Taxes": (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Seller under any Repurchase Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Independent Appraiser": A professional real estate appraiser that (i) is approved by Buyer in its sole discretion; (ii) was not selected or identified by the Underlying Obligor and is not affiliated with the lender under the mortgage or the Underlying Obligor; (iii) if engaged by Seller or any of its Affiliates, Seller or such Affiliate, as applicable, is a "financial services institution" within the meaning of the Interagency Guidelines on Evaluations and Appraisals, (iv) is a member in good standing of the American Appraisal Institute; and (v) is certified or licensed in the state where the subject Mortgaged Property is located.

"Independent Director" or "Independent Manager": An individual who has prior experience as an independent director, independent manager or independent member with at least three (3) years of employment experience and who is provided by CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company, or Lord Securities Corporation or, if none of those companies is then providing professional Independent Directors or Independent Managers, another nationally recognized company approved by Buyer, in each case that is not an Affiliate of Seller and that provides professional independent directors, independent managers and/or other corporate services in the ordinary course of its business, and which individual is duly appointed as Independent Director or Independent Manager and is not, has never been, and will not while serving as Independent Director or Independent Manager be, any of the following:

(a) a member, partner, equity holder, manager, director, officer or employee of Seller, Pledgor, or any of their respective equity holders or Affiliates (other than as an Independent Director or Independent Manager of Seller or Pledgor, or an Affiliate of Seller or Pledgor that does not own a direct or indirect ownership interest in Seller or Pledgor and that is required by a creditor to be a single purpose bankruptcy remote entity, provided, however, that such Independent Director or Independent Manager is employed by a company that routinely provides professional Independent Directors or Independent Managers);

(b) a creditor, supplier or service provider (including provider of professional services) to Seller, Pledgor or any of their respective equity holders or Affiliates (other than through a nationally-recognized company that routinely provides professional Independent Directors, Independent Managers and/or other corporate services to Seller, Pledgor or any of their respective equity holders or Affiliates in the ordinary course of business);

(c) a family member of any such member, partner, equity holder, manager, director, officer, employee, creditor, supplier or service provider; or

(d) a Person who controls (whether directly, indirectly or otherwise) any of the individuals described in the preceding clauses (a), (b) or (c).

An individual who otherwise satisfies the preceding definition and satisfies subparagraph (a) by reason of being the Independent Director or Independent Manager of a Single Purpose Entity affiliated with Seller or Pledgor that does not own a direct or indirect ownership interest in Seller or Pledgor shall be qualified to serve as an Independent Director or Independent Manager of Seller or Pledgor if the fees that such individual earns from serving as Independent Director or Independent Manager of Affiliates of Seller or Pledgor in any given year constitute in the aggregate less than five percent (5%) of such individual's annual income for that year.

"Insolvency Action": With respect to any Person, the taking by such Person of any action resulting in an Insolvency Event, other than solely under clause (g) of the definition thereof.

"Insolvency Event": With respect to any Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises with respect to such Person or any substantial part of its assets or property in an involuntary case under any applicable Insolvency Law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its assets or property, or ordering the winding-up or liquidation of such Person's affairs, and such decree or order shall remain unstayed and in effect for a period of sixty (60) days, (b) the commencement by such Person of a voluntary case under any applicable Insolvency Law now or hereafter in effect, (c) the consent by such Person to the entry of an order for relief in an involuntary case under any Insolvency Law, (d) the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its assets or property, (e) the making by such Person of any general assignment for the benefit of creditors, (f) the admission in a legal proceeding of the inability of such Person to pay its debts generally as they become due, (g) the failure by such Person generally to pay its debts as they become due, or (h) the taking of action by such Person in furtherance of any of the foregoing.

"Insolvency Laws": The Bankruptcy Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, suspension of payments and similar debtor relief laws from time to time in effect affecting the rights of creditors generally.

"Insolvency Proceeding": Any case, action or proceeding before any court or other Governmental Authority relating to any Insolvency Event.

"Interest Expense": With respect to any Person and for any relevant time period, the amount of total interest expense incurred by such Person, and its consolidated Subsidiaries, including capitalized or accruing interest (but excluding interest funded under a construction loan), *plus* such Person's proportionate share of interest expense from the joint venture investments and unconsolidated Affiliates of such Person, all with respect to such period.

"Interest Payments": With respect to any Purchased Asset, all payments of interest, income, receipts, dividends, and any other collections and distributions received from time to time in connection with any such Purchased Asset.

"Interest Rate Protection Agreement": With respect to any or all Purchased Assets, any futures contract, options related contract, short sale of United States Treasury securities or any interest rate swap, cap, floor or collar agreement, total return swap or any other similar arrangement providing for protection against fluctuations in interest rates or the exchange of nominal interest obligations either generally or under specific contingencies, in each case with a Hedge Counterparty and that is acceptable to Buyer. For the avoidance of doubt, any Interest Rate Protection Agreement with respect to a Purchased Asset shall be included in the definitions of "Purchased Asset" and "Repurchase Document."

"Interim Assignment Documents": If Seller has acquired a Purchased Asset from another Person, the allonge, assignment of Mortgage, assignment of assignment of leases and rents, general assignment, UCC-3 financing statements and/or, in the case of a Senior Interest consisting of a participation interest, the assignment of related participation certificate and/or, in the case of a Senior Interest consisting of a promissory note, the related allonge and assignment and assumption agreement and all other applicable documents evidencing the assignment of the related Purchased Asset from such Person to Seller.

"Intermediate Entities": Any Subsidiary of Guarantor, other than Pledgor, that is also a direct or indirect owner of any Equity Interest in Seller.

"Internal Control Event": Fraud that involves management or other employees who have a significant role in, the internal controls of Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor or any Affiliate of Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor over financial reporting.

"Investment": With respect to any Person, any acquisition or investment (whether or not of a controlling interest) by such Person, whether by means of (a) the purchase or other acquisition of any Equity Interest in another Person, (b) a loan, advance or extension of credit to, capital contribution to, guaranty or credit enhancement of Indebtedness of, or purchase or other acquisition of any Indebtedness of, another Person, including any partnership or joint venture interest in such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute the business or a division or operating unit of another Person. Any binding commitment or option to make an Investment in any other Person shall constitute an Investment. Except as expressly provided otherwise, for purposes of determining compliance with any covenant contained in this Agreement, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Investment Company Act": The Investment Company Act of 1940, as amended, restated or modified from time to time, including all rules and regulations promulgated thereunder.

"Investor": Any Person that is admitted to either Seller or Guarantor as a member in accordance with the applicable operating agreement or limited liability company agreement, as applicable, of Seller or Guarantor, respectively.

"Irrevocable Redirection Notice": A notice in a form acceptable to Buyer, to be signed by the Underlying Obligor (if applicable) and Seller, or by Servicer on Seller's behalf, with respect to each Purchased Asset, directing the remittance of all Income with respect to a Purchased Asset to an account designated by Buyer.

"ISDA Definitions": The 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time.

"IRS": The United States Internal Revenue Service.

"Knowledge": With respect to any Person, (A) the actual knowledge of such Person (including, for the avoidance of doubt, the actual knowledge of the employees, officers, directors and Affiliates of such Person) without further inquiry or investigation (such knowledge, "Actual Knowledge"), (B) notice to such Person of any fact, event, condition or circumstance that would cause a Person, acting reasonably, to conduct an inquiry that would give such Person Actual Knowledge (whether or not such Person actually undertook such an inquiry), and (C) all knowledge that is imputed to a Person under any statute, rule, regulation, ordinance, or official decree or order; provided, that for the avoidance of doubt, the Actual Knowledge of Seller or any Affiliate of Seller shall only include the Actual Knowledge of (i) each of the respective officers and directors of such Person, (ii) individuals of such Person (including, without limitation, those who have responsibility for the legal, operational or financial affairs of such Person) who have responsibility for the management, material day-to-day decision making, legal, operational or financial affairs of such Person or with respect to the Repurchase Documents and (iii) those individuals of such Person (including, without limitation, those who have responsibility for the legal, operational or financial affairs of such Person) who have direct responsibility for the origination or acquisition, as applicable, management or sale of the Purchased Assets.

"LIBOR": The rate of interest *per annum* determined by Buyer on the basis of the rate for deposits in Dollars for delivery on the first (1st) day of each Pricing Period, for a one-month period commencing on (and including) the first day of such Pricing Period and ending on (but excluding) the same corresponding date in the following month, as reported on Reuters Screen LIBOR01 Page (or any successor page) at approximately 11:00 a.m., London time, on the Pricing Rate Determination Date (or if not so reported, then as determined by Buyer from another recognized source or interbank quotation); provided, that in no event shall LIBOR be less than the Floor. If the calculation of LIBOR results in a LIBOR rate of less than the Floor, LIBOR shall be deemed to be the Floor for all purposes of this Agreement. Each calculation by Buyer of LIBOR shall be conclusive and binding for all purposes, absent manifest error.

"LIBOR Based Pricing Rate Determination Date": (a) In the case of the first Pricing Period for any Purchased Asset, the related Purchase Date for such Purchased Asset, and (b) in the case of each subsequent Pricing Period, two (2) Business Days prior to the Remittance Date on which such Pricing Period begins or on any other date as determined by Buyer and communicated to Seller. The failure to communicate shall not impair Buyer's decision to reset the Pricing Rate on any date.

"LIBOR Based Transaction": Subject to Section 12.01(a), any Transaction (A) for which the related Purchase Date occurred prior to the Third Amendment Effective Date (and with respect to which Buyer and Seller have not entered into an amended and restated Confirmation following the Third Amendment Effective Date expressly re-designating such Transaction as a "SOFR Based Transaction") or (B) that is expressly designated as a "LIBOR Based Transaction" in the related Confirmation therefor; provided that, for the avoidance of doubt, from and after the Rate Conversion Effective Date, all Transactions under this Agreement shall be SOFR Based Transactions for all purposes of this Agreement and the Repurchase Documents, and no Transactions hereunder shall be LIBOR Based Transactions.

"LIBOR Reference Time": Means, with respect to any Pricing Period, 11:00 a.m. (London time) on the LIBOR Based Pricing Rate Determination Date applicable thereto.

"Lien": Any mortgage, statutory or other lien, pledge, charge, right, claim, adverse claim, attachment, levy, hypothecation, assignment, deposit arrangement, security interest, UCC financing statement or encumbrance of any kind on or otherwise relating to any Person's assets or properties in favor of any other Person or any preference, priority or other security agreement or preferential arrangement of any kind.

"Margin Call": Defined in Section 4.01(a). "Margin Deficit": Defined in

Section 4.01(a).

"Margin Excess": For any Purchased Asset, as of any date of determination, the amount by which (a) the related Maximum Applicable Percentage for such Purchased Asset on each such determination date, multiplied by its Market Value on such date of determination exceeds (b) the current Purchase Price of such Purchased Asset, but (i) in no event shall Margin Excess cause the Purchase Price of any Purchased Asset to exceed the Maximum Purchase Price as of the related Purchase Date and (ii) for purposes of determining the amount of available Margin Excess pursuant to this definition, in no event shall the Market Value of such Purchased Asset be increased by any future funding or other advance made by Seller or any other Person which Buyer has not approved or participated in by funding a related Future Funding Amount, as evidenced by and reflected in the most-recent Confirmation for such Purchased Asset.

"Margin Excess Requirements": Requirements that will be satisfied as of any date of determination if (A) no Default, Event of Default, Material Event, Margin Deficit (except as would be cured in its entirety by the application of such Margin Excess) or Material Adverse Effect has occurred and is continuing or will result from any proposed Transaction or payment of Margin Excess, (B) Seller has satisfied all conditions precedent that are otherwise applicable to prospective Transactions under this Agreement, and (C) Guarantor is in full compliance with all of the financial covenants and all of its other obligations, as set forth in the Guarantee Agreement.

"Market Disruption Event": Any event or events that, in the determination of Buyer, results in (a) the effective absence of a "repo market" or related "lending market" for purchasing (subject to repurchase) or financing debt obligations secured by commercial mortgage loans or securities, (b) Buyer's not being able to finance Purchased Assets through the "repo market" or "lending market" with traditional counterparties at rates that would have been reasonable prior to the occurrence of such event or events, (c) the effective absence of a "securities market" for securities backed by Purchased Assets, or (d) Buyer's not being able to sell securities backed by Purchased Assets at prices that would have been reasonable prior to the occurrence of such event or events.

"Market Value": For any Purchased Asset as of any date, the lower of the Current Mark-to-Market Value and Book Value for such Purchased Asset as determined by Buyer by taking into account such criteria as Buyer deems appropriate, including as appropriate current interest rates, spreads and other market conditions, credit quality, subordination, delinquency status and aging and any amounts owing to or by Buyer under any related Interest Rate Protection Agreement, which market value, in each case, may be determined to be zero, as of such date as determined by Buyer; provided that, notwithstanding any other provision of this Agreement, the Market Value of a Purchased Asset shall not exceed the lower of (x) the Market Value (expressed as a percentage of par as of the Purchase Date) assigned to such Purchased Asset as of the Purchase Date, and (y) the par value of such Purchased Asset as of such date; provided, further that the Market Value may be determined by Buyer, in its sole discretion, to be reduced to zero for any Purchased Asset with respect to which:

(a) the requirements of the definition of Eligible Asset are not satisfied, as determined by Buyer;

(b) a Representation Breach exists with respect to such Purchased Asset, as determined by Buyer;

(c) any statement, affirmation or certification made or information, document, agreement, report or notice delivered by Seller to Buyer is untrue in any material respect;

(d) any Retained Interest, funding obligation or any other obligation of any kind has been transferred to Buyer;

(e) Seller fails to repurchase such Purchased Asset by the Repurchase Date therefor;

(f) an Insolvency Event has occurred with respect to any (i) Underlying Obligor, or (ii) co-participant or other Person having an interest in such Purchased Asset or any related Mortgaged Property which is senior to, *pari passu* with or junior to the rights of Buyer in such Purchased Asset;

(g) all Purchased Asset Documents have not been delivered to Custodian within the time periods required by this Agreement and the Custodial Agreement;

(h) any material Purchased Asset Document has been released from the possession of Custodian under the Custodial Agreement to Seller for more than twenty
(20) days; or

(i) Seller fails to deliver any reports required hereunder where such failure materially and adversely affects the Market Value thereof or Buyer's ability to determine

Market Value therefor; provided, however, that if such failure is due to Seller's inability to obtain any such report from the related Underlying Obligor, then (i) Seller shall make commercially reasonable efforts to obtain such report from the related Underlying Obligor as soon as practicable, (ii) during the thirty (30) day period following Seller's initial failure to deliver any such report, unless and until Seller delivers the applicable report, Buyer may re-determine the Market Value of the applicable Purchased Asset for purposes of a Margin Call and, in connection with such re-determination, Buyer may draw any adverse inference from any missing information that Buyer deems to be reasonable under the circumstances, and (iii) the Market Value of such Purchased Asset may be determined to be zero for so long as Seller's failure to obtain such report continues beyond the thirtieth (30th) day following Seller's initial failure to deliver such report.

"Material Adverse Effect": Any event, development or circumstance that has a material adverse effect on or material adverse change in or to (a) the property, assets, business, operations or financial condition of Seller, Pledgor or Guarantor, taken as a whole, (b) the ability of Seller or Guarantor to pay and perform any of its respective duties, obligations or agreements under the Repurchase Obligations, (c) the validity, legality, binding effect or enforceability of any Repurchase Document or security interest granted hereunder or thereunder, (d) the rights and remedies of Buyer or any Indemnified Person under any Repurchase Document, or (e) the perfection or priority of any Lien granted under any Repurchase Document.

"Material Event": Means the occurrence and continuance of any of the following events without, in each case, the prior written consent of Buyer: Sponsor fails to satisfy the representation in the first sentence of Section 7.04 hereof or fails to satisfy the covenant in the second sentence of Section 8.13 hereof.

"Material Impairment Threshold": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Material Modification": Any (i) material amendment, waiver, termination, rescission, cancellation or other modification to the terms of, or any collateral, guaranty or indemnity for, or the exercise of any material right or remedy of a holder (including all lending, corporate rights, remedies, consents, approvals and waivers) of, any Purchased Asset, or any related Purchased Asset Document (including, without limitation, any such document with respect to any Whole Loan related to any Senior Interest) (in each case, other than as required by the express terms of the related Purchased Asset Documents and for which there is no lender discretion), or (ii) extension or release of any collateral for any Purchased Asset or any related Whole Loan (in each case, other than as required by the express terms of the related Purchased Asset Documents and for which there is no lender discretion); provided that, so long as no monetary or material non-monetary Default or any Event of Default exists, non-material, administrative or ministerial modifications with either *de minimis* or no economic effect on the value of the related Purchased Asset or related Mortgaged Property regarding consent rights over leases, budgets, utilization of reserves or the release thereof, approval of escrows and bonding amounts for mechanics' or materialmen's liens, tax abatements or tax challenges shall not be considered Material Modifications.

"Materials of Environmental Concern": Any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any Environmental Law.

"Materiality Threshold": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Maximum Amount": $300,000,000, which amount shall not be increased by any Future Funding Transaction or Margin Excess transfer or reduced upon the repurchase of any Purchased Assets prior to the earlier to occur of the Revolving Period Expiration Date and the Facility Termination Date; provided, that (i) during the initial Extension Period (if any), the Maximum Amount on any date shall be an amount equal to the sum of (a) the then-current Aggregate Amount Outstanding, and (b) the Applicable Percentage of those remaining future funding obligations that are scheduled in the Confirmations for the related Purchased Assets, as such amount declines as Future Funding Transactions under Section 3.10 are funded, Purchased Assets are repurchased (in whole or in part) and Margin Deficits subject to a Margin Call are satisfied, and (ii) during the second Extension Period (if any), the Maximum Amount on any date shall be an amount equal to the then-current Aggregate Amount Outstanding, as such amount declines as Purchased Assets are repurchased (in whole or in part) and Margin Deficits subject to a Margin call are satisfied, in each case, all in accordance with the applicable terms of this Agreement.

"Maximum Applicable Percentage": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Maximum Purchased Asset PPV Requirement": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Maximum Purchase Price": For each Purchased Asset as of each related Purchase Date and the date of any Additional Advance, the amount equal to the product of (i) the applicable Maximum Applicable Percentage, multiplied by (ii) the Market Value of such Purchased Asset as of the Purchase Date therefor, and set forth on the most-recent Confirmation for such Purchased Asset.

"Minimum Purchased Asset Debt Yield Requirement": The meaning set forth in the Fee Letter, which definition is incorporated herein by reference.

"Moody's": Moody's Investors Service, Inc. or, if Moody's Investors Service, Inc. is no longer issuing ratings, another nationally recognized rating agency reasonably acceptable to Buyer.

"Mortgage": Any mortgage, deed of trust, assignment of rents, security agreement and fixture filing, or other instruments creating and evidencing a lien on real property and other property and rights incidental thereto.

"Mortgage Asset File": The meaning specified in the Custodial Agreement.

"Mortgage Loan Documents": With respect to any Whole Loan, those documents executed in connection with and/or evidencing or governing such Whole Loan, including, without limitation those that are required to be delivered to Custodian under the Custodial Agreement.

"Mortgage Note": The original executed promissory note or other evidence of the indebtedness of a Mortgagor with respect to a commercial mortgage loan.

"Mortgaged Property": The real property (including all improvements, buildings, fixtures, building equipment and personal property thereon and all additions, alterations and replacements made at any time with respect to the foregoing) and all other collateral directly or indirectly securing repayment of the debt evidenced by (a) a Mortgage Note (in the case of a Whole Loan) or (b) the Mortgage Note evidencing an interest in the Whole Loan to which such Senior Interest relates (in the case of a Senior Interest), in each case securing such Whole Loan.

"Mortgagee": The record holder of a Mortgage Note secured by a Mortgage. "Mortgagor": The obligor on a

Mortgage Note, including any Person who has

assumed or guaranteed the obligations of the obligor thereunder.

"MTM Representation": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Multiemployer Plan": A Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Non-Utilization Fee": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Off-Balance Sheet Obligations": With respect to any Person and any date, to the extent not included as a liability on the balance sheet of such Person, all of the following with respect to such Person (determined on a consolidated basis) as of such date: (a) monetary obligations under any financing lease or so–called "synthetic," tax retention or off-balance sheet lease transaction that, upon the application of any Insolvency Laws, would be characterized as indebtedness, (b) monetary obligations under any sale and leaseback transaction that does not create a liability on the balance sheet of such Person, or (c) any other monetary obligation arising with respect to any other transaction that (i) is characterized as indebtedness for tax purposes but not for accounting purposes, or (ii) is the functional equivalent of or takes the place of borrowing but that does not constitute a liability on the balance sheet of such Person (for purposes of this clause (c), any transaction structured to provide Tax deductibility as Interest Expense of any dividend, coupon or other periodic payment will be deemed to be the functional equivalent of a borrowing).

"Other Connection Taxes": With respect to Buyer, Taxes imposed as a result of a present or former connection between Buyer and the jurisdiction imposing such Taxes (other than a connection arising from Buyer having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Repurchase Document, or sold or assigned an interest in any Transaction or Repurchase Document).

"Other Permitted Withdrawals": Any withdrawal by Seller of amounts on deposit in the Hedge Account to the extent such amounts are related to an Interest Rate Protection Agreement entered into with respect to an Asset that is (i) no longer a Purchased Asset, or (ii) has been priced for securitization.

"Other Taxes": Any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under any Repurchase Document or from the execution, delivery, performance, or enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Repurchase Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"Parent": All of the direct or indirect holders of any Equity Interests in Guarantor (excluding public companies and any Persons who hold such direct or indirect Equity Interests in Guarantor through public companies).

"Participant": Defined in Section 18.07(b). "Participant Register": Defined in

Section 18.07(g).

"Party": The meaning set forth in the preamble to this Agreement.

"PATRIOT Act": The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, modified or replaced from time to time.

"Permitted Withdrawals": Any withdrawal by Seller of amounts on deposit in the Hedge Account, but only to the extent (i) that no Default or Event of Default has occurred and is continuing, (ii) such amounts relate to an Interest Rate Protection Agreement entered into with respect to an Asset that is a Purchased Asset and (iii) such amounts (a) relate to regularly scheduled payments due to Seller pursuant to a Hedge Counterparty's obligations under the related Interest Rate Protection Agreement, (b) relate to regularly scheduled payments due to a Hedge Counterparty pursuant to Seller's obligations under an Interest Rate Protection Agreement, or (c) are required to be delivered to a Hedge Counterparty in satisfaction of Seller's collateral posting requirements under an Interest Rate Protection Agreement.

"Person": An individual, corporation, limited liability company, business trust, partnership, trust, unincorporated organization, joint stock company, sole proprietorship, joint venture, Governmental Authority or any other form of entity.

"Plan": An employee benefit or other plan established or maintained by Seller or any ERISA Affiliate or to which Seller or any ERISA Affiliate makes, is obligated to make or has been required to make contributions and that is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code, other than a Multiemployer Plan.

"Plan Asset Regulations": The regulation of the United States Department of Labor at 29 C.F.R. § 2510.3-101 (as modified by Section 3(42) of ERISA).

"Pledge Agreement": The Pledge Agreement, dated as of the date hereof, between Buyer and Pledgor, as amended, modified, waived, supplemented, extended, restated or replaced from time to time.

"Pledged Collateral": Defined in the Pledge Agreement.

"Pledgor": BRIGHTSPIRE CREDIT 8 PLEDGOR, LLC (f/k/a CLNC Credit 8 Pledgor, LLC), a Delaware limited liability company.

"Power of Attorney": Defined in Section 18.18.

"Price Differential": For any Pricing Period or portion thereof and (a) for any Transaction outstanding, the sum of the products, for each day during such Pricing Period or portion thereof, of (i) 1/360th of the Pricing Rate in effect for each Purchased Asset subject to such Transaction during such Pricing Period, times (ii) the outstanding Purchase Price for such Purchased Asset on each such day, or (b) for all Transactions outstanding, the sum of the amounts calculated in accordance with the preceding clause (a) for all Transactions.

"Pricing Margin": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Pricing Period": For any Purchased Asset, (a) in the case of the first Remittance Date for such Purchased Asset, the period from the Purchase Date for such Purchased Asset to but excluding such Remittance Date, and (b) in the case of any subsequent Remittance Date, the one-month period commencing on and including the prior Remittance Date and ending on but excluding such Remittance Date; provided, that no Pricing Period for a Purchased Asset shall end after the Repurchase Date for such Purchased Asset to the extent such Purchased Asset is actually repurchased on such Repurchase Date.

"Pricing Rate": For any Pricing Period and any Transaction, the applicable Benchmark for such Transaction for such Pricing Period plus the applicable Pricing Margin; provided, that while an Event of Default is continuing, the Pricing Rate shall be the Default Rate.

"Pricing Rate Determination Date": (~~a) In the case of the first Pricing Period for any Purchased Asset, the related Purchase Date for such Purchased Asset, and (b) in the case of each subsequent Pricing Period, two (2) Business Days prior to the Remittance Date on which such Pricing Period begins or on any other date as determined by Buyer and communicated to Seller. The failure to communicate shall not impair Buyer's decision to reset the Pricing Rate on any date.~~A) With respect to any LIBOR Based Transaction, subject to Section 12.01(a), the LIBOR Based Pricing Rate Determination Date and (B) with respect to any SOFR Based Transaction, the SOFR Based Pricing Rate Determination Date.

"Principal Payments": For any Purchased Asset, all payments and prepayments of principal received for such Purchased Asset, including insurance and condemnation proceeds which are permitted by the terms of the Purchased Asset Documents to be applied to principal and are, in fact, so applied and recoveries of principal from liquidation or foreclosure which are permitted by the terms of the Purchased Asset Documents to be applied to principal and are, in fact, so applied.

"Purchase Agreement": Any purchase agreement between Seller and any Transferor pursuant to which Seller purchased or acquired an Asset which is subsequently sold to Buyer hereunder.

"Purchase Date": For any Purchased Asset, the date on which such Purchased Asset is purchased by Buyer from Seller in connection with a Transaction as set forth in the related Confirmation.

"Purchase Price": For any Purchased Asset, (a) as of the Purchase Date and, as initially set forth in the related Confirmation for such Purchased Asset, the price at which such Purchased Asset is initially transferred by Seller to Buyer, and (b) as of any other date, the amount described in the preceding clause (a), (i) increased by any Future Funding Amounts disbursed by Buyer to Seller or the related borrower with respect to such Purchased Asset, (ii) reduced by any amount of Margin Deficit subject to a Margin Call transferred by Seller to Buyer pursuant to Section 4.01 and applied to the Purchase Price of such Purchased Asset, (iii) reduced by any Principal Payments remitted to the Waterfall Account and which were applied to the Purchase Price of such Purchased Asset by Buyer pursuant to clause *fifth* of Section 5.02, (iv) reduced by any other payments made by Seller or applied by Buyer in accordance with the terms of this Agreement in reduction of the outstanding Purchase Price, (v) increased by any amount of any additional funds transferred to Seller by Buyer pursuant to Section 3.11 or (vi) increased or decreased, as appropriate, to the extent that any Margin Excess is reallocated either to or from the related Purchased Asset in accordance with Section 4.01(a), in each case on or prior to such date of determination with respect to such Purchased Asset.

"Purchased Asset Documents": Individually or collectively, as the context may require, the related Mortgage Loan Documents and/or the related Senior Interest Documents.

"Purchased Assets": (a) For any Transaction, each Asset sold by Seller to Buyer in such Transaction, and (b) for the Transactions in general, all Assets sold by Seller to Buyer, in each case including, to the extent relating to such Asset or Assets, all of Seller's right, title and interest in and to (i) Purchased Asset Documents, (ii) Servicing Rights, (iii) Servicing Files, (iv) mortgage guaranties and insurance (issued by Governmental Authorities or otherwise) and claims, payments and proceeds thereunder, (v) insurance policies, certificates of insurance and claims, payments and proceeds thereunder, (vi) the principal balance of such Assets, not just the amount advanced, (vii) amounts and property from time to time on deposit in the Waterfall Account or the Servicer Account, together with both the Waterfall Account and the Servicer Account themselves, (viii) collection, escrow, reserve, collateral or lock–box accounts and all amounts and property from time to time on deposit therein, to the extent of Seller's or the holder's interest therein, (ix) Income, (x) security interests of Seller in Derivatives Contracts entered into by Underlying Obligors, (xi) rights of Seller under any letter of credit, guarantee, warranty, indemnity or other credit support or enhancement, (xii) Interest Rate Protection Agreements relating to such Assets, (xiii) all of the “Pledged Collateral”, as such term is defined in the Pledge Agreement, (xiv) all proceeds related to the sale, securitization or other disposition thereof, and (xv) all supporting obligations of any kind; provided, that (A) Purchased Assets shall not include any obligations of Seller or any Retained Interests, and (B) for purposes of the grant of security interest by Seller to Buyer set forth in Section 11.01, together with the other provisions of Article 11, Purchased Assets shall include all of the following: general intangibles, accounts, chattel paper, deposit accounts, securities accounts, instruments, securities, financial assets, uncertificated securities, security entitlements and investment property (as such terms are defined in the UCC) and replacements, substitutions, conversions, distributions or proceeds relating to or constituting any of the items described in the preceding clauses (i) through (xv).

“Rate ~~Election Notice~~Conversion”: Defined in ~~the definition of “Early Opt-in Election”~~Section 12.01(a).

“Rate Conversion Effective Date”: Defined in Section 12.01(a).

“Rating Agency” or “Rating Agencies”: Each of Fitch, Moody’s and S&P. “Register”: Defined in

Section 18.07(f).

“Reference Time”: With respect to any ~~determination~~setting of the ~~Benchmark, (1) if the~~then-current Benchmark ~~is LIBOR, 11:00 a.m. (London time) on the day that is two London Business Days~~ (as determined ~~in accordance with~~pursuant to clause (~~d~~B) and/or clause (C) of ~~the~~such definition ~~of “~~, as applicable), (a) if such Benchmark is the SOFR Average or Term SOFR, with respect to any setting thereof, then two (2) U.S. Government Securities Business ~~Day”) preceding the~~Days prior to such date ~~of such determination,~~ and (~~2~~b) if ~~the~~such Benchmark is not ~~LIBOR,~~the SOFR Average or Term SOFR, then the time determined by Buyer in accordance with the Benchmark Replacement Conforming Changes.

“REIT”: A Person satisfying the conditions and limitations set forth in Section 856(b), Section 856(c), and Section 857(a) of the Code and qualifying as a real estate investment trust, as defined in Section 856(a) of the Code.

“Release”: Any generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of any property or Mortgaged Property in violation of, or that would incur liability pursuant to, Environmental Law.

“Release Amount”: With respect to any Purchased Asset, an amount equal to the lesser of (i) the Release Percentage *multiplied by* the highest outstanding Purchase Price of the related Purchased Asset from and after the related Purchase Date through the related Repurchase Date therefor, less any amounts of Purchase Price which were previously repaid as a result of any previous voluntary or involuntary prepayment by the related Underlying Obligor, and (ii) the Aggregate Amount Outstanding; provided, however, that notwithstanding anything to the contrary herein, no Release Amount shall be payable with respect to any amount of previously outstanding Purchase Price which was reduced in connection with payments by Seller to cure any Margin Deficits, to cure violations of Sub-Limits, or to comply with the Facility Debt Yield Test.

"Release Percentage": The meaning set forth in the Fee Letter, which definition is incorporated by reference herein.

"Relevant Governmental Body": The Board of Governors of the Federal Reserve ~~Board~~System and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve ~~Board~~System and/or the Federal Reserve Bank of New York, or any successor thereto.

"Remedial Work": Any investigation, inspection, site monitoring, containment, clean–up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release or threatened Release in, about or to the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of any property or Mortgaged Property of any Materials of Environmental Concern, including any action to comply with any applicable Environmental Laws or directives of any Governmental Authority with regard to any Environmental Laws.

"REMIC": A REMIC, as that term is used in the REMIC Provisions. "REMIC Provisions":

Sections 860A through 860G of the Code.

"Remittance Date": The nineteenth (19th) day of each month (or if such day is not a Business Day, the next following Business Day), or such other day as is mutually agreed to by Seller and Buyer.

"REOC": A Real Estate Operating Company within the meaning of Regulation Section 2510.3-101(e) of the Plan Asset Regulations.

"Representation Breach": Any representation, warranty, certification, statement or affirmation made or deemed made by Seller, Pledgor or Guarantor in any Repurchase Document (including in Schedule 1, but excluding any MTM Representations therein) or in any certificate, notice, report or other document delivered pursuant to any Repurchase Document, that proves to be incorrect, false or misleading in any material respect when made or deemed made, without regard to any Knowledge or lack of Knowledge thereof by such Person, except to the extent that (other than in the case of any representation or warranty set forth in Schedule 1, with respect to which, for the avoidance of doubt, the Knowledge or lack of Knowledge of such Person shall be disregarded in all cases for purposes of determining whether a Representation Breach has occurred) any such representation, warranty, certification, statement or affirmation is expressly qualified by Knowledge; provided that no Approved Representation Exception shall be deemed to be, in and of itself, a Representation Breach.

"Representation Exceptions": With respect to each Purchased Asset, a written list prepared by Seller and delivered to Buyer prior to the Purchase Date of such Purchased Asset specifying, in reasonable detail, the representations and warranties (or portions thereof) set forth in this Agreement (including in Schedule 1) that are not satisfied with respect to an Asset or Purchased Asset.

"Repurchase Date": For any Purchased Asset, the earliest to occur of (a) the Facility Termination Date, without giving effect to any unexercised extensions thereof, (b) any Early Repurchase Date therefor, (c) the Business Day on which Seller is to repurchase such Purchased Asset as specified by Seller and agreed to by Buyer in the related Confirmation, and
(d) the date that is two (2) Business Days prior to the maturity date (under the related Purchased Asset Documents with respect to such Purchased Asset including, with respect to each Senior Interest that is a participation, the related Whole Loan) for such Purchased Asset, without giving effect to any extension of such maturity date, whether by modification, waiver, forbearance or otherwise; provided that, solely with respect to this clause (d), the settlement date with respect to such Repurchase Date and Purchased Asset may occur two (2) Business Days thereafter as provided in Section 3.05).

"Repurchase Documents": Collectively, this Agreement, the Custodial Agreement, the Fee Letter, the Controlled Account Agreement, the Servicing Agreement and any related sub-servicing agreements, all Interest Rate Protection Agreements, the Pledge Agreement, the Guarantee Agreement, all Account Control Agreements, the Power of Attorney, all Confirmations, all UCC financing statements, amendments and continuation statements filed pursuant to any other Repurchase Document, and all additional documents, certificates, agreements or instruments executed and delivered in connection with the foregoing.

"Repurchase Obligations": All obligations of Seller to pay the Repurchase Price on the Repurchase Date and all other obligations and liabilities of Seller to Buyer arising under or in connection with the Repurchase Documents (for the avoidance of doubt, including all Interest Rate Protection Agreements), whether now existing or hereafter arising, and, without duplication, all interest and fees that accrue after the commencement by or against Seller, Pledgor or Guarantor of any Insolvency Proceeding naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding (in each case, whether due or accrued).

"Repurchase Price": For any Purchased Asset as of any date, an amount equal to the sum of (a) the outstanding Purchase Price as of such date, (b) the accrued and unpaid Price Differential for such Purchased Asset as of such date, (c) any accrued and unpaid fees and expenses and accrued indemnity amounts, late fees, default interest, breakage costs owed by Seller or Guarantor (without duplication) to Buyer or any of its Affiliates under this Agreement or any Repurchase Document, (d) unless, simultaneously with such repurchase, all other amounts otherwise due and payable under this Agreement are being repaid in full in connection with the termination of this Agreement, any Release Amounts payable in connection with such Purchased Asset, (e) any applicable Exit Fee, then-currently due in connection with the related Purchased Asset, and (f) all other amounts due and payable as of such date by Seller or Guarantor (without duplication) to Buyer or any of its Affiliates under this Agreement or any Repurchase Document.

"Requirements of Law": With respect to any Person or property or assets of such Person and as of any date, all of the following applicable thereto as of such date: all Governing Documents and all laws as in effect on such date (whether or not in effect on the Closing Date), statutes, rules, regulations, treaties, codes, ordinances, permits, certificates, orders and licenses of and interpretations by any Governmental Authority (including Environmental Laws, ERISA, Anti-Corruption Laws, Anti-Money Laundering Laws, Sanctions, regulations of the Board of Governors of the Federal Reserve System, and laws, rules and regulations relating to usury, licensing, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy), judgments, decrees, injunctions, writs, awards or orders of any court, arbitrator or other Governmental Authority.

"Responsible Officer": With respect to any Person, the chief executive officer, the president, the chief financial officer, the chief accounting officer, the vice president, the secretary, the treasurer or the chief operating officer of such Person or such other officer designated as an authorized signatory pursuant to such Person's Governing Documents.

"Retained Interest": (a) With respect to any Purchased Asset, (i) all duties, obligations and liabilities of Seller thereunder, including payment and indemnity obligations, (ii) all obligations of agents, trustees, servicers, administrators or other Persons under the documentation evidencing such Purchased Asset, and (iii) if any portion of the Indebtedness related to such Purchased Asset is owned by another lender or is being retained by Seller, the interests, rights and obligations under such documentation to the extent they relate to such portion, and (b) with respect to any Purchased Asset with an unfunded commitment on the part of Seller, all obligations to provide additional funding, contributions, payments or credits.

"Revolving Period": The period from the Closing Date to but excluding May 4, 2024.

"Revolving Period Expiration Date": The earliest to occur of (a) the last day of the Revolving Period, (b) any Accelerated Repurchase Date, and (c) any date on which the Facility Termination Date shall otherwise occur in accordance with the provisions hereof or Requirements of Law.

"S&P": Standard and Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or, if Standard & Poor's Ratings Services is no longer issuing ratings, another nationally recognized rating agency reasonably acceptable to Buyer.

"Sanction" or "Sanctions": Individually and collectively, any and all economic or financial sanctions, trade embargoes and anti-terrorism laws imposed, administered or enforced from time to time by: (a) the United States of America, including those administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), the U.S. State Department, the U.S. Department of Commerce, or through any existing or future Executive Order, (b) the United Nations Security Council, (c) the European Union, (d) the United Kingdom, or (e) any other Governmental Authorities with jurisdiction over Seller or Guarantor or any of their Affiliates.

"Sanctioned Target": Any Person, group, sector, territory, or country that is the target of any Sanctions, including without limitation any legal entity that is deemed to be the target of any Sanctions based upon the direct or indirect ownership or control of such entity by any other Sanctioned Target(s).

"Second Amendment Effective Date": May 4, 2021.

"Second Amendment Structuring Fee": The meaning set forth in the Fee Letter, which definition is incorporated herein by reference.

"Seller": Individually and collectively, the Seller named in the preamble of this Agreement and any Additional Sellers, together with their permitted successors and assigns as permitted in accordance with the terms of this Agreement.

"Senior Interest": (a) A senior or, if expressly authorized in writing by Buyer on or before the related Purchase Date, a controlling *pari passu* participation interest in a Whole Loan (i) that is evidenced by a Senior Interest Note, (ii) that represents an undivided participation interest in part of the underlying Whole Loan and its proceeds, (iii) that represents a pass through of a portion of the payments made on the underlying Whole Loan which lasts for the same length of time as such Whole Loan, and (iv) as to which there is no guaranty of payments to the holder of the Senior Interest Note or other form of credit support for such payments, or (b) an "A note" in an "A/B structure" in a Whole Loan.

"Senior Interest Documents": For any Senior Interest, the Senior Interest Note, together with any co-lender agreements, participation agreements and/or other intercreditor agreements or other documents governing or otherwise relating to such Senior Interest, and the Mortgage Loan Documents for the related Whole Loan, and including, without limitation, those documents which are required to be delivered to Custodian under the Custodial Agreement (which documents so required to be delivered to Custodian shall only be required to include, for the avoidance of doubt, copies of the Mortgage Loan Documents for the related Whole Loan).

"Senior Interest Note": (a) The original executed promissory note, participation or other certificate or other tangible evidence of a Senior Interest, (b) the related original Mortgage Note (or, if Seller cannot obtain the original, then a certified copy thereof with a lost note affidavit signed by a Responsible Officer of Seller in such form as is acceptable to Buyer in its discretion), and (c) the related original participation and/or intercreditor agreement, as applicable (or, if Seller cannot obtain the original, then a certified copy thereof).

"Servicer": For each Purchased Asset, as determined in accordance with Article 17, either (a)Wells Fargo Bank, National Association, or its designee or, (b) a servicer acceptable to Buyer, servicing such Purchased Asset under a Servicing Agreement.

"Servicer Account": The segregated, non-interest bearing account, created and maintained at Deposit Account Bank pursuant to the Servicing Agreement, which shall be in Servicer's name for the benefit of Buyer pursuant to the Servicing Agreement, account number 4626919906, and pledged to Buyer hereunder.

"Servicer Event of Default": With respect to a Servicer, (a) any default or event of default (however defined) under the Servicing Agreement, or (b) any failure of such Servicer to be rated by a Rating Agency as an approved servicer of commercial mortgage loans.

"Servicer Notice": A notice in the form of Exhibit G sent by Seller to Servicer, and countersigned and returned to Buyer by Servicer.

"Servicing Agreement": That certain Servicing Agreement by and between Seller and Wells Fargo Bank, National Association, dated as of the date hereof, or such other agreement entered into by Buyer (if applicable), Seller and any other Servicer for the servicing of Purchased Assets, acceptable to Buyer.

"Servicing File": With respect to any Purchased Asset, the file retained and maintained by Seller or the related Servicer, including the originals or copies of all Purchased Asset Documents and other documents and agreements (i) relating to such Purchased Asset and/or the related Whole Loan, (ii) relating to the origination and/or servicing and administration of such Purchased Asset and/or the related Whole Loan, or (iii) that are otherwise reasonably necessary for the ongoing administration and/or servicing of such Purchased Asset and/or the related Whole Loan or for evidencing or enforcing any of the rights of the holder of such Purchased Asset or holders of interests therein, including, to the extent applicable, all servicing agreements, files, documents, records, databases, computer tapes, insurance policies and certificates, appraisals, other closing documentation, payment history and other records relating to or evidencing the servicing of such Purchased Asset, which file shall be held by Seller and/or Servicer for and on behalf of Buyer.

"Servicing Rights": With respect to any Purchased Asset, all right, title and interest of Seller, Sponsor, any Intermediate Entity, Pledgor, Guarantor or any Affiliate of Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor, or any other Person, in and to any and all of the following: (a) rights to service and/or sub-service, and collect and make all decisions with respect to, the Purchased Assets and/or any related Whole Loans, (b) amounts received by Seller, Sponsor, any Intermediate Entity, Pledgor, Guarantor or any Affiliate of Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor, or any other Person, for servicing and/or sub-servicing the Purchased Assets and/or any related Whole Loans, (c) late fees, penalties or similar payments as compensation with respect to the Purchased Assets and/or any related Whole Loans, (d) agreements and documents creating or evidencing any such rights to service and/or sub-service the Purchased Assets (including, without limitation, all Servicing Agreements), together with all documents, files and records relating to the servicing and/or sub-servicing of the Purchased Assets and/or any related Whole Loans, and rights of Seller, Sponsor, any Intermediate Entity, Pledgor, Guarantor or any Affiliate of Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor, or any other Person thereunder, (e) escrow, reserve and similar amounts with respect to the Purchased Assets and/or any related Whole Loans, (f) rights to appoint, designate and retain any other servicers, sub-servicers, special servicers, agents, custodians, trustees and liquidators with respect to the Purchased Assets and/or any related Whole Loans, and (g) accounts and other rights to payment related to the Purchased Assets and/or any related Whole Loans.

"Significant Principal Payment": Any individual Principal Payment from an individual Underlying Obligor in connection with a single Purchased Asset, where the amount thereof is equal to or in excess of $1,000,000.

"Single Purpose Entity": A corporation, limited partnership or limited liability company that, since the date of its formation (unless otherwise indicated in this Agreement) and at all times on and after the date hereof, has complied with and shall at all times comply with the provisions of Article 9.

“SOFR”: ~~With respect~~A rate per annum equal to ~~any day,~~ the secured overnight financing rate ~~published for such day~~as administered by the SOFR Administrator ~~on the~~ .

“SOFR ~~Administrator’s Website at approximately 2:30 p.m. on the next succeeding U.S. Governmental Securities Business Day~~Adjustment”: 0.11448% per annum.

“SOFR Administrator”: The Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website”: The website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“SOFR Average”: For any Pricing Period, the rate per annum determined by Buyer as the compounded average of SOFR over a rolling calendar day period of thirty (30) days (“30-Day SOFR Average”), for the SOFR Based Pricing Rate Determination Date as such rate is published by the SOFR Administrator on the SOFR Administrator’s Website; provided, however, that (i) if as of 5:00 p.m. (New York City time) on any SOFR Based Pricing Rate Determination Date, such 30-Day SOFR Average has not been published on the SOFR Administrator’s Website and a Benchmark Replacement Date with respect to SOFR Average has not occurred, then SOFR Average will be the 30-Day SOFR Average as published on the SOFR Administrator’s Website for the first preceding U.S. Government Securities Business Day for which such 30-Day SOFR Average was published on the SOFR Administrator’s Website so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such SOFR Based Pricing Rate Determination Date and (ii) if the calculation of SOFR Average as determined as provided above (including pursuant to clause (i) of this proviso) results in a SOFR Average rate of less than the Floor, SOFR Average shall be deemed to be the Floor for all purposes of this Agreement and the other Repurchase Documents. Each calculation by Buyer of SOFR Average shall be conclusive and binding for all purposes, absent manifest error.

“SOFR Based Pricing Rate Determination Date”: (a) In the case of the first Pricing Period for any Purchased Asset, two (2) U.S. Government Securities Business Days prior to the related Purchase Date for such Purchased Asset, and (b) in the case of each subsequent Pricing Period, two (2) U.S. Government Securities Business Days prior to the Remittance Date on which such Pricing Period begins or on any other date as determined by Buyer and communicated to Seller. The failure to communicate shall not impair Buyer’s decision to reset the Pricing Rate on any date.

“SOFR Based Transaction”: Any Transaction that is not a LIBOR Based Transaction.

“Solvent”: With respect to any Person at any time, having a state of affairs such that all of the following conditions are met at such time: (a) the fair value of the assets and property of such Person is greater than the amount of such Person’s liabilities (including disputed, contingent and unliquidated liabilities) as such value is established and liabilities evaluated for purposes of Section 101(32) of the Bankruptcy Code, (b) the present fair salable value of the assets and property of such Person in an orderly liquidation of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person is able to realize upon its assets and property and pay its debts and other liabilities (including disputed, contingent and unliquidated liabilities) as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (e) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's assets and property would constitute unreasonably small capital.

"Sponsor": Colony Credit Real Estate, Inc., a Maryland corporation. "Structuring Fee": The meaning set forth in the Fee Letter, which definition is incorporated herein by reference.

"Sub-Limit": The meaning set forth in the Fee Letter, which definition is incorporated herein by reference.

"Subsidiary": With respect to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

"Taxes": All present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Sheet": The letter (with attachment) from Buyer to Guarantor dated April 4, 2018.

"Term SOFR": For any calculation with respect to a SOFR Based Transaction, the Term SOFR Reference Rate for a tenor comparable to the related Pricing Period on the day (such day, for purposes of this definition, the "Periodic Term SOFR Determination Day") that is two (2) U.S. Government Securities Business Days prior to the first day of such Pricing Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day; provided, further, that if Term SOFR determined as provided above shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

"Term SOFR Administrator": CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

"Term SOFR Reference Rate": The forward-looking term rate ~~for the Corresponding Tenor~~ based on SOFR ~~that has been selected or recommended by the Relevant Governmental Body~~.

"Third Amendment Effective Date": February 17, 2022.

"Transaction": With respect to any Asset, the sale and transfer of such Asset from Seller to Buyer pursuant to the Repurchase Documents against the transfer of funds from Buyer to Seller representing the Purchase Price (or any additional Purchase Price for such Asset) with a simultaneous agreement by Buyer to transfer such Assets to Seller against payment of the applicable Repurchase Price on the related Repurchase Date in accordance with the Repurchase Documents. For the avoidance of doubt, any increases or decreases of Purchase Price with respect to a Purchased Asset which has become subject to a Confirmation shall be deemed a part of a single Transaction and each Transaction shall be evidenced by the most-recent Confirmation.

"Transaction Request": Defined in Section 3.01(a).

"Transferor": The seller of an Asset under a Purchase Agreement.

"Type": With respect to a Mortgaged Property underlying any Purchased Asset, such Mortgaged Property's classification as one of the following: retail, office, industrial, self-storage, Hotel Asset or multifamily asset.

"UCC": The Uniform Commercial Code as in effect in the State of New York; provided, that, if, by reason of Requirements of Law, the perfection, effect on perfection or non-perfection or priority of the security interest in any Purchased Asset is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, then "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or priority.

"Unadjusted Benchmark Replacement": The applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Underlying Obligor": Individually and collectively, as the context may require,

(a) in the case of a Purchased Asset that is a Whole Loan, the Mortgagor and each obligor and guarantor under such Purchased Asset, including (i) any Person who has not signed the related Mortgage Note but owns an interest in the related Mortgaged Property, which interest has been encumbered to secure such Purchased Asset, and (ii) any other Person who has assumed or guaranteed the obligations of such Mortgagor under the Purchased Asset Documents relating to such Purchased Asset, and (b) in the case of a Purchased Asset that is a Senior Interest, the Mortgagor and each obligor and any other Person who has assumed or guaranteed the related Whole Loan.

"Underwriting Package": With respect to one or more Assets, the internal document or credit committee memorandum setting forth all material information relating to an Asset which is known by Seller, prepared by Seller for its evaluation of such Asset, to include at a minimum all the information required to be set forth in the relevant Confirmation. In addition, the Underwriting Package shall include all of the following, to the extent applicable and available:

(a) all Purchased Asset Documents required to be delivered to Custodian under Section 2.01 of the Custodial Agreement;

(b) an Appraisal, together with a property condition report, a Phase I environmental report and, if appropriate, a seismic report;

(c) the current occupancy report, tenant stack and rent roll;

(d) at least two (2) years of property-level financial statements;

(e) the current financial statement of the Underlying Obligor;

(f) the Mortgage Asset File;

(g) third-party reports and agreed-upon procedures, letters and reports (whether drafts or final forms), site inspection reports, market studies and other due diligence materials prepared by or on behalf of or delivered to Seller;

(h) aging of accounts receivable and accounts payable;

(i) copies of all Purchased Asset Documents not otherwise required to be delivered pursuant to clause (a) above;

(j) such further documents or information as Buyer may request;

(k) any and all agreements, documents, reports, or other information concerning the Purchased Assets (including, without limitation, all of the related Purchased Asset Documents) received or obtained in connection with the origination of the Purchased Assets;

(l) any other material documents or reports concerning the Purchased Assets prepared or executed by Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor; and

(m) if the related Asset was acquired by Seller from a third party, all documents, instruments and agreements received in respect of the closing of the acquisition transaction under the related Purchase Agreement.

"USD LIBOR": The London interbank offered rate for U.S. dollars with a tenor of one month.

"USD LIBOR Transition Date": Means the earlier of (a) the date that USD LIBOR has either (i) permanently or indefinitely ceased to be provided by the administrator of USD LIBOR; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide an USD LIBOR or (ii) been announced by the regulatory supervisor of the administrator of USD LIBOR pursuant to public statement or publication of information to be no longer representative, (b) the Early Opt-in Effective Date and (c) such other date as Buyer and Seller may mutually agree.

"U.S. Government Securities Business Day": Any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association, or any successor thereto, recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"U.S. Person": Any Person that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"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.

"U.S. Tax Compliance Certificate": Defined in Section 12.06(e).

"VCOC": A "venture capital operating company" within the meaning of Section 2510.3-101(d) of the Plan Asset Regulations.

"Waterfall Account": A segregated non-interest bearing account established at Deposit Account Bank, in the name of Seller, pledged to Buyer and subject to the Controlled Account Agreement.

"Wet Mortgage Asset": Any Eligible Asset for which (i) the scheduled origination date of the related Whole Loan is the proposed Purchase Date ~~set forth in the Transaction Request~~for such Eligible Asset, and Seller has delivered a Transaction Request pursuant to Section 3.01(g) hereof, and (ii) a complete Mortgage Asset File has not been delivered to Custodian prior to the related Purchase Date and for which a bailee agreement has been delivered.

"Whole Loan: A commercial real estate whole loan made to the related Underlying Obligor and secured primarily by a perfected, first priority Lien in the related underlying Mortgaged Property, including, without limitation with respect to any Senior Interest, the whole loan in which Seller owns a Senior Interest.

~~Section 2.02~~ Rules of Interpretation. Headings are for convenience only and do not affect interpretation. The following rules of this Section 2.02 apply unless the context requires otherwise. The singular includes the plural and conversely. A gender includes all genders. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning. A reference to an Article, Section, Subsection, Paragraph, Subparagraph, Clause, Annex, Schedule, Appendix, Attachment, Rider or Exhibit is, unless otherwise specified, a reference to an Article, Section, Subsection, Paragraph, Subparagraph or Clause of, or Annex, Schedule, Appendix, Attachment, Rider or Exhibit to, this Agreement, all of which are hereby incorporated herein by this reference and made a part hereof. A reference to a party to this Agreement or another agreement or document includes the party's successors, substitutes or assigns in each case, permitted by the Repurchase Documents. A reference to an agreement or document is to the agreement or document as amended, restated, modified, novated, supplemented or replaced, except to the extent prohibited by any Repurchase Document. A reference to legislation or to a provision of legislation includes a modification, codification, replacement, amendment or reenactment of it, a legislative provision substituted for it and a rule, regulation or statutory instrument issued under it. A reference to writing includes email and any means of reproducing words in a tangible and permanently visible form. A reference to conduct includes an omission, statement or undertaking, whether or not in writing. A Default or Event of Default exists until it has been cured or waived in writing by Buyer. The words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement, unless the context clearly requires or the language provides otherwise. The word "including" is not limiting and means "including without limitation." The word "any" is not limiting and means "any and all" unless the context clearly requires or the language provides otherwise. In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including," the words "to" and "until" each mean "to but excluding," and the word "through" means "to and including." The words "will" and "shall" have the same meaning and effect. A reference to day or days without further qualification means calendar days. A reference to any time means New York time. This Agreement may use several different limitations, tests or measurements to regulate the same or similar matters. All such limitations, tests and measurements are cumulative and shall each be performed in accordance with their respective terms. Unless the context otherwise clearly requires, all accounting terms not expressly defined herein shall be construed in accordance with GAAP, and all accounting determinations, financial computations and financial statements required hereunder shall be made in accordance with GAAP, without duplication of amounts, and on a consolidated basis with all Subsidiaries. All terms used in Articles 8 and 9 of the UCC, and used but not specifically defined herein, are used herein as defined in such Articles 8 and 9. A reference to "fiscal year" and "fiscal quarter" means the fiscal periods of the applicable Person referenced therein. A reference to an agreement includes a security interest, guarantee, agreement or legally enforceable arrangement whether or not in writing. A reference to a document includes an agreement (as so defined) in writing or a certificate, notice, instrument or document, or any information recorded in electronic format. Whenever a Person is required to provide any document to Buyer under the Repurchase Documents, the relevant document shall be provided in writing (including, except for Mortgage Notes, Senior Interest Notes, and any other document required to be in an original form in order to preserve, record, grant or perfect Buyer's interest therein, in the form of a PDF document attached to an e-mail message) or printed form unless Buyer requests otherwise. At the request of Buyer, the document shall be provided in electronic format or both printed and in electronic format. The Repurchase Documents are the result of negotiations between the Parties, have been reviewed by counsel to Buyer and counsel to Seller, and are the product of both Parties. No rule of construction shall apply to disadvantage one Party on the ground that such Party proposed or was involved in the preparation of any particular provision of the Repurchase Documents or the Repurchase Documents themselves. Except where otherwise expressly stated, Buyer may give or withhold, or give conditionally, approvals and consents, and may form opinions and make determinations, in its sole and absolute discretion. Reference herein or in any other Repurchase Document to Buyer's discretion, shall mean, unless otherwise expressly stated herein or therein, Buyer's sole and absolute discretion, and the exercise of such discretion shall be final and conclusive. In addition, whenever Buyer has a decision or right of determination, opinion or request, exercises any right given to it to agree, disagree, accept, consent, grant waivers, take action or no action or to approve or disapprove (or any similar language or terms), or any arrangement or term is to be satisfactory or acceptable to or approved by Buyer (or any similar language or terms), the decision of Buyer with respect thereto shall, except where otherwise expressly stated herein, be in the sole and absolute discretion of Buyer, and such decision shall be final and conclusive, except as may be otherwise specifically provided herein.

Section 2.03 Rates. Price Differential on Transactions denominated in Dollars or any other currency permitted hereunder (if any) may be determined by reference to a benchmark rate that is, or may in the future become, the subject of regulatory reform or cessation. Regulators have signaled the need to use alternative reference rates for some of these benchmark rates and, as a result, such benchmark rates may cease to comply with applicable laws and regulations, may be permanently discontinued or the basis on which they are calculated may change. Buyer does not warrant or accept any responsibility for, and shall not have any liability with respect to, (i) the continuation of, administration of, submission of, calculation of or any other matter related to the London interbank offered rate, the rates in any Benchmark, any component definition thereof or rates referenced in the definition thereof or with respect to any alternative, successor or replacement rate thereto (including any then-current Benchmark or any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 12.01, will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, such Benchmark or any other Benchmark prior to its discontinuance or unavailability, or (ii) the effect, implementation or composition of any Benchmark Replacement Conforming Changes. Buyer and its Affiliates or other related entities may engage in transactions that affect the calculation of a Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to Seller. Buyer may select information sources or services in its reasonable discretion to ascertain any Benchmark, any component definition thereof or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to Seller or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

**ARTICLE 3**

**THE TRANSACTIONS**

Section 3.01 Procedures.

(a) From time to time during the Revolving Period, but not more frequently than twice per week, with not less than three (3) Business Days prior written notice to Buyer, Seller may request Buyer to enter into a proposed Transaction by sending Buyer a written notice ~~(in electronic or physical format) substantially in the form of Exhibit A (~~of such request (which notice may be given via email) (such request, a "Transaction Request"), which Transaction Request shall: (i) describe the Transaction and each proposed Asset and any related underlying Mortgaged Property and other security therefor in reasonable detail, (ii) transmit, either in electronic or physical format, a complete Underwriting Package for each proposed Asset, (iii) set forth the Representation Exceptions requested, if any, with respect to each proposed Asset, and (iv) indicate the amount of all then-currently unfunded future funding obligations, and the portion thereof expected to be funded by Buyer under Section 3.10. Seller shall promptly deliver to Buyer (in electronic or physical format) any supplemental materials requested at any time by Buyer. Buyer shall conduct such review of the Underwriting Package and each such Asset as Buyer determines appropriate. Buyer shall determine whether or not it is willing to purchase any or all of the proposed Assets, and if so, on what terms and conditions. In connection with such review and determination, Buyer may also consider the *pro forma* effect that acquiring the proposed Purchased Asset would have on the concentrations of specific asset categories. It is expressly agreed and acknowledged that Buyer is entering into the Transactions on the basis of all such representations and warranties and on the completeness and accuracy of the information contained in the applicable Underwriting Package, and any incompleteness or inaccuracies in the related Underwriting Package will only be acceptable to Buyer if disclosed in writing (in electronic or physical format) to Buyer by Seller in advance of the related Purchase Date, and then only if Buyer opts to purchase the related Purchased Asset from Seller notwithstanding such incompleteness and inaccuracies. In the event of a Representation Breach with respect to a particular Purchased Asset, Seller shall, within five (5) Business Days from the earlier of (i) notice to Seller from Buyer or Servicer or (ii) Seller's otherwise having Actual Knowledge of such Representation Breach, repurchase the related Asset or Assets in accordance with Section 3.05.

(b) Buyer shall give Seller notice (in electronic or physical format) of the date when Buyer has received a complete Transaction Request, together with the Underwriting Package, supplemental materials and any other documentation required pursuant to Section 3.01(a) or otherwise required under any Repurchase Documents. Buyer shall endeavor to communicate to Seller a preliminary non-binding determination of whether or not it is willing to purchase (i) any single Eligible Asset, and if so, on what terms and conditions, within five (5) Business Days after such date, and (ii) two (2) or more proposed Eligible Assets within ten (10) Business Days after such date, and if its preliminary determination is favorable, by what date Buyer expects to communicate to Seller a final non-binding indication of its determination. If Buyer has not communicated its final non-binding indication to Seller by such date, Buyer shall automatically and without further action be deemed to have determined not to purchase any such Asset.

(c) If Buyer communicates to Seller a final non-binding determination that it is willing to purchase any or all of such Assets, Seller shall deliver to Buyer (in electronic or physical format) an executed preliminary Confirmation for such Transaction, describing each such Asset and its proposed Purchase Date, Market Value, Applicable Percentage, Maximum Applicable Percentage, Maximum Purchase Price, Purchase Price and such other terms and conditions as Buyer may require prior to the Purchase Date. If Buyer requires changes to the preliminary Confirmation, Seller shall make such changes and re-execute the preliminary Confirmation. If Buyer determines to enter into the Transaction on the terms described in the preliminary Confirmation, Buyer shall promptly execute and return the same to Seller, which shall thereupon become effective as the Confirmation of the Transaction. Buyer's approval of the purchase of an Asset on such terms and conditions as Buyer may require shall be evidenced only by its execution and delivery of the related Confirmation. For the avoidance of doubt, Buyer shall not (i) be bound by any preliminary or final non-binding determination referred to above, (ii) be deemed to have approved the purchase of an Asset by virtue of the approval or entering into by Buyer of a rate lock agreement, Interest Rate Protection Agreement, total return swap or any other agreement with respect to such Asset, or (iii) be obligated to purchase an Asset notwithstanding a Confirmation executed by the Parties unless and until all applicable conditions precedent in Article 6 have been satisfied or waived by Buyer.

(d) Each Confirmation, together with this Agreement, shall be conclusive evidence of the terms of the Transaction covered thereby, and shall be construed to be cumulative to the extent possible, but in no way shall be construed as evidence of Buyer's agreement subsequently to purchase additional amounts of, or other, Assets. If terms in a Confirmation are inconsistent with terms in this Agreement with respect to a particular Transaction, the Confirmation shall prevail. Whenever the Applicable Percentage or any other term of a Transaction (other than the Pricing Rate, Market Value and outstanding Purchase Price) with respect to an Asset is revised or adjusted in accordance with this Agreement, an amended and restated Confirmation reflecting such revision or adjustment and that is otherwise acceptable to the Parties shall be prepared by Seller and executed by the Parties.

(e) The fact that Buyer has conducted or has failed to conduct any partial or complete examination or any other due diligence review of any Asset shall in no way affect any rights Buyer may have under the Repurchase Documents or otherwise with respect to any representations or warranties or other rights or remedies thereunder or otherwise, including the right to determine at any time that such Asset is not an Eligible Asset.

(f) No Transaction shall be entered into if (i) any Margin Deficit subject to a Margin Call, Default, Event of Default, Market Disruption Event, Material Event or Material Adverse Effect has occurred and is continuing or would exist as a result of such Transaction unless any such Margin Deficit, Default, Event of Default or Material Adverse Effect is cured simultaneously with the consummation of such Transaction, (ii) the Repurchase Date for the Purchased Assets subject to such Transaction would be later than the Facility Termination Date,
(iii) the proposed Purchased Asset does not qualify as an Eligible Asset, (iv) after giving effect to such Transaction, (A) the proforma aggregate outstanding Repurchase Price of all Transactions (after giving effect to such proposed Transaction) would exceed the Maximum Amount, or (B) any Sub-Limit has been or would be exceeded, (v) the Revolving Period Expiration Date has occurred, (vi) if Buyer determines not to enter into any such Transaction for any reason or for no reason, or (vii) all Purchased Asset Documents have not been delivered to Custodian (or a Bailee) in accordance with the applicable provisions of this Agreement and the Custodial Agreement, (viii) the Facility Debt Yield Test is either then-currently being breached (unless such breach would be cured in its entirety by the entering into of such Transaction) or would be breached after giving effect to such Transaction, or (ix) the proposed Purchased Asset does not comply with either the Minimum Purchased Asset Debt Yield Requirement or the Maximum Purchased Asset PPV Requirement.

Notwithstanding anything to the contrary herein, in no event shall any LIBOR Based Transaction be entered into on or after the Third Amendment Effective Date, unless otherwise agreed by Buyer in its sole discretion.

(g) In addition to the foregoing provisions of this Section 3.01, solely with respect to any Wet Mortgage Asset, a copy of the related Transaction Request shall be delivered by Seller to Bailee (in electronic or physical format) no later than 11:00 a.m. (New York City time) one (1) Business Day prior to the requested Purchase Date, to be held in escrow by Bailee on behalf of Buyer pending finalization of the Transaction.

(h) Notwithstanding any of the foregoing provisions of this Section 3.01 or any contrary provisions set forth in the Custodial Agreement, solely with respect to any Wet Mortgage Asset:

(i) by 11:00 a.m. (New York City time) on the Purchase Date, Seller or Bailee shall deliver signed .pdf copies of the Purchased Asset Documents to Custodian via electronic mail, and Seller shall deliver the appropriate written third-party wire transfer instructions to Buyer;

(ii) not later than 11:00 a.m. (New York City time) on the related Purchase Date, (A) Bailee shall deliver an executed .pdf copy of the Bailee Agreement (as such term is defined in the Custodial Agreement) to Seller, Buyer and Custodian by electronic mail and (B) if Buyer has previously received the trust receipt in accordance with Section 3.01(b) of the Custodial Agreement, determined that all other applicable conditions in this Agreement, including without limitation those set forth in Section 6.02 hereof, have either been satisfied or waived by Buyer, as applicable, and otherwise has agreed to purchase the related Wet Mortgage Asset, Buyer shall (I) execute and deliver a .pdf copy of the related Confirmation to Seller and Bailee via electronic mail and (II) wire funds in the amount of the related Purchase Price for the related Wet Mortgage Asset in accordance with the wire transfer instructions that were previously delivered to Buyer by Seller; and

(iii) within three (3) Business Days after the applicable Purchase Date with respect to any Wet Mortgage Asset, Seller shall deliver, or cause to be delivered (A) to Custodian, the complete original Mortgage Asset File with respect to such Wet Mortgage Asset, pursuant to and in accordance with the terms of the Custodial Agreement, and (B) to Buyer, the complete original Underwriting Package with respect to the related Wet Mortgage Assets purchased by Buyer; provided, that if Seller cannot deliver, or cause to be delivered within three (3) Business Days, (A) any Basic Mortgage Asset Document to Custodian that is required by its terms to be recorded, due to a delay caused solely by the public recording office where such document or instrument has been delivered for recordation, then Seller shall deliver to Custodian (x) within three (3) Business Days of the applicable Purchase Date, a copy thereof (certified by Seller to be a true and complete copy of the original thereof submitted for recording) and (y) within thirty (30) days of the applicable Purchase Date, either the original of such document, or a photocopy thereof, with official evidence of submission for recording (including stamp-filed copies, if applicable) thereon and (B) any document in the Mortgage Asset File other than a Basic Mortgage Asset Document, due to an unavoidable delay outside the control of Seller, then Seller shall deliver to Custodian within thirty (30) days of the applicable Purchase Date, either the original of such document, or a photocopy thereof certified by Seller to be a true and correct copy of the original. For the avoidance of doubt (A) Seller shall, in all cases, deliver the original Mortgage Note or, in the case of a Senior Interest consisting of a participation interest, the original participation certificate to Buyer within three (3) Business Days of the applicable Purchase Date and (B) Buyer may, but shall not obligated to, consent to such later date for delivery of any part of the Mortgage Asset File as Buyer sees fit, in Buyer’s sole discretion.

(i) In the event that Seller cannot deliver or cause to be delivered on the applicable Purchase Date, any Interim Assignment Document that is required by its terms to be recorded, due to a delay caused solely by the public recording office where such document or instrument has been delivered for recordation, then Seller shall deliver to Custodian (x) on the applicable Purchase Date, a copy thereof (certified by Seller to be a true and complete copy of the original thereof submitted for recording), with evidence of the submission thereof for recording and (y) within thirty (30) days of the applicable Purchase Date, either the original of such document, or a photocopy thereof, with official evidence of submission for recording (including stamp filed copies, if applicable) thereon.

Section 3.02 Transfer of Purchased Assets; Servicing Rights. On the Purchase Date for each Purchased Asset, and subject to the satisfaction of all applicable conditions precedent in Article 6, (a) ownership of and title to such Purchased Asset shall be transferred to and vest in Buyer or its designee against the simultaneous transfer of the Purchase Price to the account of Seller specified in Annex 1 (or if not specified therein, in the related Confirmation or as directed by Seller), and (b) Seller hereby sells, transfers, conveys and assigns to Buyer on a servicing-released basis all of Seller's right, title and interest (except with respect to any Retained Interests) in and to such Purchased Asset, together with all related Servicing Rights. Subject to this Agreement, during the Revolving Period Seller may sell to Buyer, repurchase from Buyer and re-sell Eligible Assets to Buyer, but Seller may not substitute other Eligible Assets for Purchased Assets. Buyer has the right to designate each Servicer of the Purchased Assets. The Servicing Rights and other servicing provisions under this Agreement are not severable from or to be separated from the Purchased Assets under this Agreement, and such Servicing Rights and other servicing provisions of this Agreement constitute (a) "related terms" under this Agreement within the meaning of Section 101(47)(A)(i) of the Bankruptcy Code and/or (b) a security agreement or other arrangement or other credit enhancement related to the Repurchase Documents. To the extent any additional limited liability company is formed by a Division of Seller (and without prejudice to Sections 8.01, 8.03 and 9.01 hereof), Seller shall cause each such Division LLC to sell, transfer, convey and assign to Buyer on a servicing released basis and for no additional consideration all of each such Division LLC's right, title and interest in and to each Purchased Asset, together with all related Servicing Rights in the same manner and to the same extent as the sale, transfer, conveyance and assignment by Seller on each related Purchase Date of all of Seller's right, title and interest in and to each Purchased Asset, together with all related Servicing Rights.

Section 3.03 Maximum Amount. The aggregate outstanding Purchase Price for all Purchased Assets as of any date of determination shall not exceed the Maximum Amount. If the aggregate outstanding Purchase Price for all Purchased Assets as of any date of determination exceeds the Maximum Amount, Seller shall immediately pay to Buyer an amount necessary to reduce such aggregate outstanding Purchase Price to an amount equal to or less than the Maximum Amount.

Section 3.04 Early Repurchase Date; Mandatory Repurchases; Optional Repurchases; Partial Repurchases. Seller may terminate any Transaction with respect to any or all Purchased Assets and repurchase such Purchased Assets on any date prior to the Repurchase Date (an "Early Repurchase Date"); provided, that (a) Seller notifies Buyer and any related Affiliated Hedge Counterparty (in electronic or physical format) at least three (3) Business Days before the proposed Early Repurchase Date identifying the Purchased Asset(s) to be repurchased and the Repurchase Price thereof, (b) Seller delivers to Buyer a certificate from a Responsible Officer of Seller in form and substance satisfactory to Buyer certifying that no Margin Deficit subject to a Margin Call, Default or Event of Default has occurred and is continuing or would exist as a result of such repurchase, there are no other Liens on the remaining Purchased Assets or Pledged Collateral other than Liens granted pursuant to the Repurchase Documents, and such repurchase would not cause Seller to violate the Facility Debt Yield Test, (c) if the Early Repurchase Date is not a Remittance Date, Seller pays to Buyer any amount due under Section 12.03 and pays all amounts due to any related Affiliated Hedge Counterparty under the related Interest Rate Protection Agreement, (d) no Repurchase Obligations are then-currently due and payable from Seller to Buyer, and (e) Seller pays to Buyer any Exit Fee due in accordance with Section 3.07, if any, and Seller thereafter complies with Section 3.05. Notwithstanding the foregoing, should any Margin Deficit subject to a Margin Call exist either prior to or after giving effect to any repurchase under this Section 3.04, Seller shall also pay the amount of each related Margin Deficit that is subject to a Margin Call and is outstanding to Buyer at the same time that

Seller pays the related Repurchase Price to Buyer hereunder. Such early terminations and repurchases shall be limited to two (2) occurrences in any calendar week.

Notwithstanding any provision to the contrary contained elsewhere in any Repurchase Document, at any time during the existence of any unsatisfied Margin Deficit that is subject to a Margin Call, or an uncured Default or Event of Default that would not otherwise be fully cured after giving effect to the related repurchase and application of funds in accordance with Article 5 of this Agreement, Seller shall only be permitted to effect the repurchase and release of a Purchased Asset in connection with either (i) a full payoff of all amounts due in respect of such Purchased Asset by the Underlying Obligor, or (ii) a sale of such Purchased Asset to an unaffiliated third party purchaser purchasing on an arm's length basis, unless, in each case, Seller pays directly to Buyer an amount equal to either (x) 100% of the net proceeds paid in connection with the relevant payoff by the Underlying Obligor or any Affiliate thereof or (y) 100% of the net proceeds received by Seller from an unaffiliated third-party purchaser purchasing on arm's length terms in connection with the sale of such Purchased Asset, as applicable. The portion of all such net proceeds in excess of the then-current Repurchase Price of the related Purchased Asset shall be applied by Buyer to reduce any other amounts due and payable to Buyer, as determined in its discretion, under this Agreement.

In addition to other rights and remedies of Buyer under any Repurchase Document, Seller shall, in accordance with the procedures set forth in this Section 3.04 and Section 3.05, within five (5) Business Days from the earlier of (x) notice to Seller from Buyer or Servicer or (y) Seller's otherwise having Actual Knowledge thereof, (i) repurchase any Purchased Asset that either (a) no longer qualifies as an Eligible Asset, as determined by Buyer, or (b) for which all documents required to be delivered to Custodian under the Custodial Agreement have not been so delivered on a timely basis, or (ii) make a partial or complete repurchase of one or more of the Purchased Assets to the extent necessary to cure a breach of a Sub-Limit during the Revolving Period.

The terms and provisions governing partial repurchases are set forth in Section 4 of the Fee Letter, and are incorporated by reference herein.

Section 3.05 Repurchase. On the Repurchase Date for each Purchased Asset, Seller shall transfer to Buyer the Repurchase Price for such Purchased Asset as of the Repurchase Date, and pay all amounts due to any Affiliated Hedge Counterparty under the related Interest Rate Protection Agreement and, so long as no Default or Event of Default has occurred and is continuing and no unsatisfied Margin Deficit subject to a Margin Call exists, Buyer shall transfer to Seller such Purchased Asset, whereupon such Transaction with respect to such Purchased Asset shall terminate; provided, however, that, with respect to any Repurchase Date that occurs on the second Business Day prior to the maturity date (as defined under the related Purchased Asset Documents with respect to such Purchased Asset) for such Purchased Asset by reason of clause (d) of the definition of "Repurchase Date", settlement of the payment of the Repurchase Price and such amounts may occur up to the second Business Day after such Repurchase Date; provided, further, that Buyer shall have no obligation to transfer to Seller, or release any interest in, such Purchased Asset until Buyer's receipt (including by payment to the Waterfall Account) of payment in full of the Repurchase Price therefor. So long as no Default or Event of Default has occurred and is continuing, upon receipt by Buyer of the Repurchase Price and all other amounts due and owing to Buyer and its Affiliates under this Agreement and each other Repurchase Document as of such Repurchase Date, Buyer shall be deemed to have simultaneously released its security interest in such Purchased Asset, shall authorize Custodian (in accordance with the terms of the Custodial Agreement) to release to Seller (or its designee) the Purchased Asset Documents for such Purchased Asset and, to the extent any UCC financing statement filed against Seller specifically identifies such Purchased Asset, Buyer shall deliver an amendment thereto or termination thereof evidencing the release of such Purchased Asset from Buyer's security interest therein. Any such transfer or release shall be without recourse to Buyer and without representation or warranty by Buyer except that Buyer shall hereby be deemed to represent to Seller, to the extent that good title was transferred and assigned by Seller to Buyer hereunder, that Buyer was the owner of such Purchased Asset, free and clear of any other interests or Liens caused by Buyer. Any Income with respect to such Purchased Asset received by Servicer, Buyer or Deposit Account Bank after payment of the Repurchase Price therefor shall be remitted to Seller. Notwithstanding the foregoing, Seller shall repurchase all Purchased Assets no later than the Facility Termination Date by paying to Buyer the outstanding Repurchase Price therefor and all other outstanding Repurchase Obligations.

Section 3.06 Facility Termination Date Extension Options. At the request of Seller delivered to Buyer in writing (in electronic or physical format) no earlier than ninety (90) days and no later than thirty (30) days before the then-current Facility Termination Date, provided that the Extension Conditions set forth below are fully satisfied both on the date of Seller's written request and as of the then-current Facility Termination Date, Seller shall have two (2) separate, consecutive options to extend the then-current Facility Termination Date, each such option for a period of one (1) year (each, an "Extension Period"). Any extension of the Facility Termination Date shall be subject to the satisfaction of the following conditions, as determined by Buyer in its sole discretion (each, an "Extension Condition"): (i) no Default or Event of Default has occurred and is continuing, (ii) no unsatisfied Margin Call shall be outstanding, (iii) Seller shall have made a timely written request to extend the then-current Facility Termination Date as provided in this Section 3.06, (iv) Seller shall be in compliance with the Facility Debt Yield Test, (v) if requested by Buyer, Seller shall have delivered to Buyer a new or updated Beneficial Ownership Certification, as applicable, in relation to Seller to the extent that Seller qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, and (vi) Seller has paid to Buyer the Extension Fee on or before the then-current Facility Termination Date. If the Extension Conditions are not fully satisfied as of the then-current Facility Termination Date, then notwithstanding any prior approval by Buyer to extend the then-current Facility Termination Date, Seller shall have no right to extend the then-current Facility Termination Date, and any pending request to extend the then-current Facility Termination Date shall be deemed to be denied. Notwithstanding anything to the contrary in this Section 3.06, in no event shall the Facility Termination Date be extended for more than two (2) Extension Periods. For the avoidance of doubt, an extension of the Facility Termination Date pursuant to this Section 3.06 (i) shall become effective on the then-current Facility Termination Date, and (ii) shall not extend the Repurchase Date of any Transaction other than by operation clause (a) of the definition of "Repurchase Date").

Section 3.07 Payment of Price Differential and Fees.

(a) Notwithstanding that Buyer and Seller intend that each Transaction hereunder constitute a sale to Buyer of the Purchased Assets subject thereto, Seller shall pay to Buyer the accrued value of the Price Differential for each Purchased Asset on each Remittance Date. In addition thereto, interest shall accrue on all past due amounts otherwise due from Seller to Buyer under this Agreement at a rate equal to the Pricing Rate plus five percent (5%). Buyer shall give Seller notice of the Price Differential and any fees and other amounts due under the Repurchase Documents on or prior to the second (2nd) Business Day preceding each Remittance Date; provided, that Buyer's failure to deliver such notice shall not affect (i) the accrual of such obligations in accordance with this Agreement or (ii) Seller's obligation to pay such amounts. If the Price Differential includes any estimated Price Differential, Buyer shall recalculate such Price Differential after the Remittance Date and, if necessary, make adjustments to the Price Differential amount due on the following Remittance Date.

(b) The terms and conditions related to the payment by Seller to Buyer of certain fees and expenses are set forth in Section 2 of the Fee Letter. In addition thereto, Seller shall pay to Buyer all fees and other amounts as and when due, as set forth in this Agreement including, without limitation:

(i) the Structuring Fee, which shall be fully earned by Buyer on the Closing Date, and due and payable to Buyer by Seller, in accordance with the terms and conditions set forth in Section 2 of the Fee Letter, which terms and provisions are incorporated herein by reference;

(ii) the Non-Utilization Fee which shall be due and payable to Buyer by Seller in accordance with the terms and provisions set forth in Section 2 of the Fee Letter, which terms and provisions are incorporated by reference;

(iii) the Extension Fee, which shall be fully earned on, and due and payable to Buyer by Seller in accordance with the terms and provisions set forth in Section 3.06;

(iv) the Exit Fee, which shall be fully earned on, and due and payable to Buyer by Seller in accordance with, the terms and provisions set forth in Section 2 of the Fee Letter, which terms and provisions are incorporated by reference; and

(v) the Second Amendment Structuring Fee, which shall be due and payable to Buyer by Seller in accordance with the terms and conditions set forth in Section 2 of the Fee Letter, which terms and provisions are incorporated herein by reference.

Section 3.08 Payment, Transfer and Custody.

(a) Unless otherwise expressly provided herein, all amounts required to be paid or deposited by Seller, Sponsor, Pledgor, Guarantor or any other Person under the Repurchase Documents shall be paid or deposited in accordance with the terms hereof no later than 3:00 p.m. on the Business Day when due, in immediately available Dollars and without deduction, set-off or counterclaim, and if not received before such time shall be deemed to be received on the next Business Day. Whenever any payment under the Repurchase Documents shall be stated to be due on a day other than a Business Day, such payment shall be made on the next following Business Day, and such extension of time shall in such case be included in the computation of such payment. Seller shall, to the extent permitted by Requirements of Law, pay to Buyer interest in connection with any amounts not paid when due under the Repurchase Documents, which interest shall be calculated at a rate equal to the Default Rate, until all such amounts are received in full by Buyer. Amounts payable to Buyer and not otherwise required to be deposited into the Servicer Account shall be deposited into an account of Buyer (including the Waterfall Account). Seller shall have no rights in, rights of withdrawal from, or rights to give notices or instructions regarding Buyer's account or the Waterfall Account or the Servicer Account.

(b) Any Purchased Asset Documents not delivered to Buyer or Custodian on the relevant Purchase Date and subsequently received or held by or on behalf of Seller are and shall be held in trust by Seller or its agent for the benefit of Buyer as the owner thereof until so delivered to Buyer or Custodian. Seller or its agent shall maintain a copy of such Purchased Asset Documents and the originals of the Purchased Asset Documents not delivered to Buyer or Custodian. The possession of Purchased Asset Documents by Seller or its agent is in a custodial capacity only at the will of Buyer for the sole purpose of assisting the related Servicer with its duties under the Servicing Agreement. Each Purchased Asset Document retained or held by or on behalf of Seller or its agent shall be segregated on Seller's books and records from the other assets of Seller or its agent, and the books and records of Seller or its agent shall be marked to reflect clearly the sale of the related Purchased Asset to Buyer on a servicing-released basis. Seller or its agent shall release its custody of the Purchased Asset Documents only in accordance with written instructions from Buyer, unless such release is required as incidental to the servicing of the Purchased Assets by Servicer or is in connection with a repurchase of any Purchased Asset by Seller, in each case in accordance with the Custodial Agreement.

Section 3.09 Repurchase Obligations Absolute. All amounts payable by Seller under the Repurchase Documents shall be paid without notice, demand, counterclaim, set-off, deduction or defense (as to any Person and for any reason whatsoever) and without abatement, suspension, deferment, diminution or reduction (as to any Person and for any reason whatsoever), and the Repurchase Obligations shall not be released, discharged or otherwise affected, except as expressly provided herein, by reason of: (a) any damage to, destruction of, taking of, restriction or prevention of the use of, interference with the use of, title defect in, encumbrance on or eviction from, any Purchased Asset, the Pledged Collateral or related Mortgaged Property, (b) any Insolvency Proceeding relating to Seller, any Underlying Obligor or any other loan participant under a Senior Interest, or any action taken with respect to any Repurchase Document, Purchased Asset Document by any trustee or receiver of Seller, any Underlying Obligor or any other loan participant under a Senior Interest, or by any court in any such proceeding, (c) any claim that Seller has or might have against Buyer under any Repurchase Document or otherwise, (d) any default or failure on the part of Buyer to perform or comply with any Repurchase Document or other agreement with Seller, (e) the invalidity or unenforceability of any Purchased Asset, Repurchase Document or Purchased Asset Document, or (f) any other occurrence whatsoever, whether or not similar to any of the foregoing, and whether or not Seller has notice or Knowledge of any of the foregoing. The Repurchase Obligations shall be full recourse to Seller and Pledgor, and limited recourse to Guarantor to the extent of, and subject to the specified full-recourse provisions set forth in, the Guarantee Agreement. This Section 3.09 shall survive the termination of the Repurchase Documents and the payment in full of the Repurchase Obligations.

Section 3.10 Future Funding Transactions. Buyer's agreement to enter into any Future Funding Transaction is subject to the satisfaction of the following conditions precedent, both immediately prior to entering into such Future Funding Transaction and also after giving effect to the consummation thereof:

(i) Seller shall give Buyer written notice (in electronic or physical format) of each Future Funding Transaction, together with a signed, written confirmation in the form of Exhibit H attached hereto prior to the related Future Funding Date (each, a "Future Funding Confirmation"), signed by a Responsible Officer of Seller. Each Future Funding Confirmation shall identify the related Whole Loan and/or Senior Interest, shall identify Buyer and Seller, shall set forth the requested Future Funding Amount, and shall be executed by both Buyer and Seller; provided, however, that Buyer shall not be liable to Seller if it inadvertently acts on a Future Funding Confirmation that has not been signed by a Responsible Officer of Seller. Each Future Funding Confirmation, together with this Agreement, shall be conclusive evidence of the terms of the Future Funding Transaction covered thereby, and shall be construed to be cumulative to the extent possible. If terms in a Future Funding Confirmation are inconsistent with terms in this Agreement with respect to a particular Future Funding Transaction such Future Funding Confirmation shall prevail.

(ii) For each proposed Future Funding Transaction, no less than five (5) Business Days prior to the proposed Future Funding Date, Seller shall deliver to Buyer, either in electronic or physical format, a Future Funding Request Package. Buyer shall have the right to conduct an additional due diligence investigation of the Future Funding Request Package and/or the related Whole Loan and/or Senior Interest as Buyer determines. Buyer shall be entitled to make a determination, in the exercise of Buyer's sole and absolute discretion whether, in the case of a Future Funding Transaction, it shall or shall not advance the requested Future Funding Amount. If Buyer determines not to advance a requested Future Funding Amount with respect to any Purchased Asset, Seller shall promptly satisfy all future funding obligations with respect to each Purchased Asset as and when required pursuant to the related Purchased Asset Documents, together with the terms of this Agreement. Prior to the approval of each proposed Future Funding Transaction by Buyer, Buyer shall have determined, in Buyer's sole and absolute discretion, that (A) all of the applicable conditions precedent for a Transaction, as described in Section 6.02, have been met by Seller, (B) the Facility Debt Yield Test is in compliance both before and after giving effect to the proposed Transaction, (C) the related Purchased Asset is not a Defaulted Asset, (D) the related Purchased Asset satisfies the Maximum Purchased Asset PPV Requirement and the Minimum Purchased Asset Debt Yield Requirement both before and after giving effect to the proposed Transaction and (E) all related conditions precedent set forth in the related Purchased Asset Documents have been satisfied. Notwithstanding any other provision herein or otherwise, Buyer shall have no obligation to enter into any Future Funding Transaction (even with respect to any Purchased Asset identified on the applicable Purchase Date as having future funding obligations). Any determination to enter into a Future Funding Transaction shall be made in Buyer's sole and absolute discretion.

(iii) Upon the approval by Buyer of a particular Future Funding Transaction, Buyer shall deliver to Seller a signed copy of the related Future Funding Confirmation described in clause (i) above, on or before the related Future Funding Date. On the related Future Funding Date, which shall occur no later than three (3) Business Days after the final approval of the Future Funding Transaction by Buyer (a) if an escrow agreement has been established in connection with such Future Funding Transaction, Buyer shall remit the related Future Funding Amount to the related escrow account, (b) if the terms of the Purchased Asset Documents provide for a reserve account in connection with future advances, Buyer shall remit the related Future Funding Amount to the applicable reserve account and (c) if Seller has funded (or caused to be funded) the entirety of the future funding obligation to which such Future Funding Amount relates and provided Buyer with written evidence thereof, Buyer shall remit the related Future Funding Amount to Seller, or otherwise, Buyer shall remit the related Future Funding Amount directly to the related Underlying Obligor.

(iv) Notwithstanding the foregoing, in no event shall a Future Funding Transaction be permitted hereunder at any time after the expiration of the first Extension Period, if any.

Notwithstanding anything to the contrary herein, in no event shall any Future Funding Transaction be entered into with respect to any LIBOR Based Transaction on or after the Third Amendment Effective Date, unless otherwise agreed by Buyer in its sole discretion.

Section 3.11 Additional Advances. The terms and provisions governing Additional Advances are set forth in Section 4 of the Fee Letter, and are incorporated by reference herein.

## ARTICLE 4 MARGIN MAINTENANCE

Section 4.01 Margin Deficit.

(a) With respect to any Purchased Asset or group of Purchased Assets, if on any date either of the following has occurred (I) for any individual Purchased Asset (X) a Credit Event with respect to such Purchased Asset has occurred and (Y) an amount equal to the product of the Applicable Percentage for such Purchased Asset, multiplied by its Market Value, is less than the outstanding Purchase Price for such Purchased Asset as of such date, or (II) one or more of the Purchased Assets has caused Seller to violate the Facility Debt Yield Test (the amount of any shortfall under clause (I) or the amount necessary to cure any violation under clause (II), a "Margin Deficit"), then Buyer shall have the right from time to time as determined in its sole discretion to make a margin call on Seller (a "Margin Call") in an amount equal to the amount of the related Margin Deficit; provided that, (i) prior to the occurrence and continuation of a Default or an Event of Default, Buyer shall only make a Margin Call if the related Margin Deficit or Margin Deficits exceeds the Material Impairment Threshold, (ii) prior to the occurrence and continuance of a Default or an Event of Default, Buyer shall not make any

Margin Call under clause (I) above in connection with any Purchased Asset that accrues interest at a floating rate to the extent that the related Margin Deficit resulted from interest rate changes and/or credit spread movements, and (iii) for the avoidance of doubt, but subject to the foregoing clauses (i) and (ii), Buyer shall be permitted to make Margin Calls hereunder in connection with multiple assets at the same time. In lieu of the satisfaction by Seller of a Margin Call under clause (I) above through the payment of cash or in combination with Seller's payment of cash, Buyer may elect, in its sole and absolute discretion, upon a written request of Seller that satisfies all of the requirements set forth in clauses (w) through (z) below (to be received prior to the date that the related Margin Deficit is due), to reallocate any then-currently available Margin Excess in order to eliminate the related Margin Deficit by increasing the Purchase Price of a Purchased Asset with the related Margin Excess and decreasing the Purchase Price of the Purchased Asset that is the subject of the related Margin Call. Any such written request for reallocation shall include the following, with such back-up calculations as Buyer may require: (w) the Purchased Asset(s) with respect to which Margin Excess exists and the amount of such Margin Excess that Seller requests be re-allocated, (x) the Purchased Asset to which Seller is requesting such Margin Excess be applied, the new Purchase Price of such Purchased Asset and the new Purchase Price of the Purchased Asset with the related Margin Excess, in each case, after giving pro forma effect to such allocation, (y) the amount of the Margin Deficit on the Purchased Asset to which such Margin Excess is to be applied both immediately prior to and immediately after giving pro forma effect to such allocation and (z) a certification from Seller that no Default or Event of Default has occurred and is continuing (except as would be cured by such reallocation). Upon Buyer's independent confirmation, to be made in Buyer's sole discretion, that the Margin Excess Requirements have been satisfied and the conclusions and calculations set forth in Seller's written request comply with the requirements set forth above, Buyer may, in its sole and absolute discretion, reallocate the related Margin Excess to those Purchased Assets for which Margin Deficits would otherwise exist, as determined by Buyer in its sole discretion, and, immediately thereafter, Seller shall execute and deliver new Confirmations acceptable to Buyer reflecting the new Purchase Price of all affected Purchased Assets.

(b) To the extent any Margin Deficit that is subject to a Margin Call under Section 4.01(a)(I) above is not eliminated by way of a Margin Excess reallocation pursuant to Section 4.01(a), or in the case of any Margin Call under Section 4.01(a)(II) above, in each case, Seller shall, within three (3) Business Days after notice from Buyer that a Margin Call has occurred (provided that, if such notice is delivered to Seller after 1:00 p.m. (New York City time), such three (3) Business Day period shall commence on the Business Day following Buyer's delivery thereof), at Seller's option (i) transfer cash to Buyer, (ii) repurchase Purchased Assets at the Repurchase Price thereof, or (iii) choose any combination of the foregoing, so that, after giving effect to such transfers, repurchases and payments, the related Margin Deficit is fully cured.

Notwithstanding anything to the contrary herein, in no event shall available Margin Excess in respect of any LIBOR Based Transaction be reallocated (i.e., in such a way that the Purchase Price of any such LIBOR Based Transaction would be increased) at any time to cure in whole or in part a Margin Deficit relating to (x) any SOFR Based Transaction or (y) any LIBOR Based Transaction where such reallocation would result in an increase to the Purchase Price of any LIBOR Based Transaction with a Repurchase Date that is later than the Repurchase Date of the LIBOR Based Transaction in respect of which such Margin Deficit exists.

(c) In no case shall Buyer's forbearance from delivering a Margin Call at any time there is a Margin Deficit be deemed to waive such Margin Deficit or in any way limit, stop or impair Buyer's right to deliver a Margin Call at any time when the same or any other Margin Deficit exists on the same or any other Purchased Asset. Buyer's rights under this Section 4.01 are cumulative and in addition to and not in lieu of any other rights of Buyer under the Repurchase Documents or Requirements of Law.

(d) All cash transferred to Buyer pursuant to this Section 4.01 shall be deposited into the Waterfall Account, except as directed by Buyer, and notwithstanding any provision in Section 5.02 to the contrary, shall be applied to reduce the Purchase Price of either
(i) in connection with any Margin Deficit under Section 4.01(a)(I), the Purchased Asset to which such Margin Deficit relates, or (ii) in connection with any Margin Deficit under Section 4.01(a)(II), to the unpaid Purchase Price(s) of such Purchased Asset(s) as Buyer shall determine in its sole discretion. Immediately after the satisfaction by Seller of each Margin Call hereunder, Seller and Buyer shall execute and deliver the appropriate amended and restated Confirmations.

## ARTICLE 5 APPLICATION OF INCOME

Section 5.01 Waterfall Account; Servicer Account. The Waterfall Account and the Servicer Account shall be established at Deposit Account Bank. Buyer shall have (i) sole dominion and control over the Waterfall Account (including, without limitation, "control" within the meaning of Section 9-104(a)(2) of the UCC), pursuant to the terms of the Controlled Account Agreement, and "control" over the Servicer Account within the meaning of Section 9-104(a)(1) of the UCC. Neither Seller nor any Person claiming through or under Seller shall have any claim to or interest in either the Waterfall Account or the Servicer Account. All Income received by Seller, Buyer, any Servicer or Deposit Account Bank in respect of the Purchased Assets that consists of Significant Principal Payments shall be transferred, subject to the applicable provisions of the Servicing Agreement, by Servicer from the Servicer Account into the Waterfall Account promptly, and in no event later than two (2) Business Days of receipt thereof, and all such Income other than Significant Principal Payments shall be transferred, subject to the applicable provisions of the Servicing Agreement, by Servicer from the Servicer Account into the Waterfall Account promptly, and in no event later than two (2) Business Days prior to the next Remittance Date (unless Servicer is an entity other than Buyer or an Affiliate of Buyer, in which case all such transfers shall be made within two (2) Business Days of receipt thereof). All such Income, once deposited in the Waterfall Account, shall be applied to and remitted by Deposit Account Bank in accordance with this Article 5.

Section 5.02 Before an Event of Default. If no Event of Default has occurred and is continuing, all Income described in Section 5.01 and deposited into the Waterfall Account during each Pricing Period, shall be applied by Deposit Account Bank by no later than the next following Remittance Date in the following order of priority; provided that, upon written notice (in electronic or physical format) from Seller to Buyer and Deposit Account Bank, requesting distribution of Income consisting of Significant Principal Payments that has been credited to the Waterfall Account, no more than once in any Pricing Period, such Income consisting of Significant Principal Payments shall be applied by Deposit Account Bank within two (2) Business Days following receipt of such notice, in each case, in the following order of priority:

*first*, to pay to Buyer an amount equal to the Price Differential accrued with respect to all Purchased Assets as of such Remittance Date;

*second*, to pay to Buyer an amount equal to all default interest, late fees, fees, expenses and Indemnified Amounts then due and payable from Seller and other applicable Persons to Buyer under the Repurchase Documents;

*third*, to pay to Buyer an amount sufficient to eliminate any outstanding Margin Deficit that is subject to a Margin Call (without limiting Seller's obligation to satisfy a Margin Deficit that is subject to a Margin Call in a timely manner as required by Section 4.01);

*fourth*, to pay to Buyer all unpaid Release Amounts (if any) payable in accordance with the terms of this Agreement, to be applied by Buyer to reduce the then-current unpaid Repurchase Prices of one or more of the remaining Purchased Assets, as Buyer shall determine in its discretion;

*fifth*, to pay to Buyer the Applicable Percentage of any Principal Payments (to the extent actually deposited into the Waterfall Account), to be applied to reduce the outstanding Purchase Price of each related Purchased Asset;

*sixth*, to pay any custodial and servicing fees and expenses due and payable under the Custodial Agreement and any Servicing Agreement;

*seventh*, to pay to Buyer any other amounts due and payable from Seller and other applicable Persons to Buyer under the Repurchase Documents; and

*eighth*, to pay to Seller any remainder for its own account, subject, however, to the covenants and other requirements of the Repurchase Documents; provided that, if any Default has occurred and is continuing on such Remittance Date, all amounts otherwise payable to Seller hereunder shall be retained in the Waterfall Account until the earlier of (x) the day on which Buyer provides written notice to the Deposit Account Bank that such Default has been cured to the satisfaction of Buyer in its sole discretion and no other Default or Event of Default has occurred and is continuing, at which time the Deposit Account Bank shall apply all such amounts pursuant to this priority *eighth*; and (y) the day that the related Default becomes an Event of Default, at which time the Deposit Account Bank shall apply all such amounts pursuant to Section 5.03.

Section 5.03 During an Event of Default. If an Event of Default has occurred and is continuing, all Income deposited into the Waterfall Account in respect of the Purchased Assets shall be applied by Deposit Account Bank, on the Business Day next following the Business Day on which each amount of Income is so deposited, in the following order of priority:

*first*, to pay to Buyer an amount equal to the Price Differential accrued with respect to all Purchased Assets as of such date;

*second*, to pay to Buyer an amount equal to all default interest, late fees, fees, expenses and Indemnified Amounts then due and payable from Seller and other applicable Persons to Buyer under the Repurchase Documents;

*third*, to pay any custodial and servicing fees and expenses due and payable under the Custodial Agreement and any Servicing Agreement;

*fourth*, to pay to Buyer an amount equal to the aggregate Repurchase Price of all Purchased Assets (to be applied in such order and in such amounts as determined by Buyer, until the Aggregate Amount Outstanding has been reduced to zero); and (ii) to pay to any Affiliated Hedge Counterparty an amount equal to all termination payments payable with respect to each related Interest Rate Protection Agreement;

*fifth*, to pay to Buyer all other Repurchase Obligations due to Buyer; and

*sixth*, to pay to Seller any remainder; provided, that if Buyer has exercised the remedies described in Section 10.02(d)(ii) with respect to any or all Purchased Assets, Seller shall not be entitled to any proceeds from any eventual sale of such Purchased Assets.

Section 5.04 Seller to Remain Liable. If the amounts remitted to Buyer as provided in Sections 5.02 and 5.03 are insufficient to pay all amounts due and payable to Buyer or any of its Affiliates under this Agreement or any Repurchase Document on a Remittance Date, a Repurchase Date or Facility Termination Date, whether due to the occurrence of an Event of Default or otherwise, Seller shall remain liable to Buyer for payment of all such amounts when due.

## ARTICLE 6 CONDITIONS PRECEDENT

Section 6.01 Conditions Precedent to Initial Transaction. Buyer shall not be

obligated to enter into any Transaction or purchase any Asset until the following conditions have been satisfied or waived by Buyer, on and as of the Closing Date and which shall remain in compliance as of the first Purchase Date:

(a) Buyer has received the following documents, each dated the Closing Date or as of the first Purchase Date unless otherwise specified: (i) each Repurchase Document duly executed and delivered by the parties thereto, (ii) an official good standing certificate or its documentary equivalent dated a recent date with respect to Seller, Pledgor and Guarantor (including, with respect to Seller, in each jurisdiction where any Mortgaged Property is located to the extent necessary for Buyer to enforce its rights and remedies thereunder), (iii) certificates of a Responsible Officer of each of Seller, Pledgor and Guarantor with respect to attached copies of the Governing Documents and applicable resolutions of Seller, Pledgor and Guarantor, and the incumbencies and signatures of officers of Seller, Pledgor and Guarantor executing the Repurchase Documents to which each is a party, evidencing the authority of Seller, Pledgor and Guarantor with respect to the execution, delivery and performance thereof, (iv) a Closing Certificate, (v) an executed Power of Attorney, (vi) such opinions from counsel to Seller, Pledgor and Guarantor as Buyer may require, including with respect to corporate matters, due formation, existence and good standing of Seller, Pledgor and Guarantor, the due authorization, execution, delivery and enforceability of each Repurchase Document, non-contravention, no consents or approvals required other than those that have been obtained, validly granted and perfected security interests in the Purchased Assets, the Pledged Collateral and any other collateral pledged pursuant to the Repurchase Documents, Investment Company Act matters, and true sale (if applicable), and the applicability of Bankruptcy Code safe harbors (including Buyer's related liquidation, termination and offset rights), (vii) a duly completed Compliance Certificate, and (viii) all other documents, certificates, information, financial statements, reports, approvals and opinions of counsel as Buyer may require;

(b) (i) UCC financing statements have been filed against Seller and Pledgor in all filing offices required by Buyer, (ii) Buyer has received such searches of UCC filings, tax liens, judgments, pending litigation and other matters relating to Seller and the Purchased Assets as Buyer may require, and (iii) the results of such searches are satisfactory to Buyer;

(c) Buyer has received payment from Seller of all fees and expenses then payable under Section 3.07(b), the related provisions of the Fee Letter and all expenses payable as contemplated by Section 13.02, together with any other fees and expenses otherwise due and payable pursuant to any of the other Repurchase Documents;

(d) Buyer has completed to its satisfaction such due diligence (including, Buyer's "Know Your Customer", Anti-Corruption Laws, Sanctions and Anti-Money Laundering Laws diligence, and any information required to be obtained by Buyer pursuant to the Beneficial Ownership Regulation) and modeling as it may require, and all information provided to Buyer by Seller or Guarantor must be true, accurate, complete and not misleading in any material respect, all as determined by Buyer;

(e) Buyer shall have received, sufficiently in advance of (but in any event not less than three (3) Business Days prior to) the Closing Date a Beneficial Ownership Certification in relation to Seller to the extent that Seller qualifies as a "legal entity customer" under the Beneficial Ownership Regulation; and

(f) Buyer has received approval from its internal credit committee and all other necessary approvals required for Buyer, to enter into this Agreement and consummate Transactions hereunder, no material adverse change has occurred from the approval date until the Closing Date, including, without limitation, any changes in requirements of Laws, or relevant financial, banking, real estate or capital market conditions, and Guarantor shall have been in compliance with all financial covenants set forth in the Guarantee Agreement.

Section 6.02 Conditions Precedent to All Transactions. Buyer shall not be obligated to enter into any Transaction, purchase any Asset, or be obligated to take, fulfill or perform any other action hereunder, until the following additional conditions have been satisfied or waived by Buyer, with respect to each Asset on and as of the Purchase Date (including the first Purchase Date) therefor:

(a) Buyer has received the following documents for each prospective Purchased Asset: (i) ~~a Transaction Request~~ [reserved], (ii) an Underwriting Package, (iii) a Confirmation, (iv) if the prospective Purchased Asset is not serviced by Buyer or an Affiliate of Buyer, copies of the related Servicing Agreements, (v) an Irrevocable Redirection Notice that is

(x) executed by Seller and delivered to Custodian on behalf of Buyer, and (y) to the extent the related Underlying Obligor is not required by the related Purchased Asset Documents to remit Income to the Servicer, a fully executed Irrevocable Redirection Notice delivered to Custodian on behalf of Buyer, (vi) if the Underlying Obligor is required to remit Income to the Servicer, evidence satisfactory to Buyer that the Underlying Obligor has been so directed to remit Income to Servicer in accordance with the Purchased Asset Documents, (vii) a trust receipt from Custodian, together with all other items required to be delivered under the Custodial Agreement (for all Purchased Assets other than Wet Mortgage Assets), (viii) with respect to any Wet Mortgage Asset, a Bailee Agreement (as such term is defined in the Custodial Agreement) and the related trust receipt from such Bailee, together with electronic or physical copies of all items required to be delivered under the Custodial Agreement, (ix) the related Servicing Agreement, if a copy was not previously delivered to Buyer, (x) a Servicer Notice, if not previously delivered to Servicer, (xi) ~~a duly completed Compliance Certificate~~[reserved], and (xii) all other documents, certificates, information, financial statements, reports, approvals and opinions of counsel as Buyer may require;

(b) immediately before such Transaction and immediately after giving effect thereto and to the intended use thereof, no change in any Requirements of Law or market conditions which make it unfavorable for Buyer to enter into the proposed Transaction has occurred, no Representation Breach (including with respect to any Purchased Asset), Default, Event of Default, Margin Deficit which is subject to a Margin Call (except as would be cured in its entirety by consummation of such Transaction), Material Event, Market Disruption Event or Material Adverse Effect has occurred and is continuing, and each of the Minimum Purchased Asset Debt Yield Requirement with respect to the applicable Asset, the Maximum Purchased Asset PPV Requirement with respect to the applicable Asset, the Facility Debt Yield Test and each Sub-Limit are in compliance;

(c) Buyer has completed its due diligence review of the Underwriting Package, Purchased Asset Documents and such other documents, records and information as Buyer deems appropriate, and the results of such reviews are satisfactory to Buyer;

(d) Buyer has (i) determined that such Asset is an Eligible Asset and complies, on the related Purchase Date, with both the Minimum Purchased Asset Debt Yield Requirement and the Maximum Purchased Asset PPV Requirement, in each case, as evidenced by Buyer's execution of the related Confirmation, (ii) approved the purchase of such Asset as evidenced by Buyer's execution of the related Confirmation, (iii) obtained all necessary internal credit and other approvals for such Transaction as evidenced by Buyer's execution of the related Confirmation, and (iv) executed the Confirmation;

(e) immediately after giving effect to such Transaction, (I) the aggregate Purchase Price of all Purchased Assets does not exceed the Maximum Amount, and (II) Guarantor will be in compliance with all of the financial covenants set forth in the Guarantee Agreement;

(f) the Repurchase Date specified in the Confirmation is not later than the Facility Termination Date;

(g) Seller has satisfied all requirements and conditions and has performed all covenants, duties, obligations and agreements contained in the other Repurchase Documents to be performed by such Person on or before the Purchase Date;

(h) to the extent the related Purchased Asset Documents contain notice, cure and other provisions in favor of a pledgee under a repurchase or warehouse facility, and without prejudice to the sale treatment of such Asset to Buyer, Buyer has received satisfactory evidence that Seller has given notice (or will deliver such required notice contemporaneously with the consummation of the Transaction) to the applicable Persons of Buyer's interest in such Asset and otherwise satisfied any other applicable requirements under such pledgee provisions so that Buyer is entitled to the rights and benefits of a pledgee under such pledgee provisions;

(i) solely with respect to any Hedge Required Asset (i) Buyer has received a copy of any Interest Rate Protection Agreement and related documents entered into with respect to such Asset, (ii) Seller has assigned or pledged to Buyer all of Seller's rights (but none of its obligations) under such Interest Rate Protection Agreement and related documents, subject to, in the case of a Cleared Swap, (A) the rights, if any, of the related DCO and FCM and (B) any limitation on assignment or pledge by Seller required by the DCO or FCM, and (iii) no termination event, default or event of default (however defined) exists thereunder;

(j) Seller has provided Buyer with copies of any license, registration or other similar certification or official document available to Seller from the jurisdiction where the related underlying Mortgaged Property is located, to the extent necessary for Seller to enforce its rights and remedies under the related Purchased Asset Documents;

(k) if requested by Buyer, such opinions from counsel to Seller, Pledgor, Sponsor and/or Guarantor as Buyer may require, including, without limitation, with respect to the perfected security interest in the Purchased Assets, the Pledged Collateral and any other collateral pledged pursuant to the Repurchase Document, and true sale issues;

(l) Custodian (or a bailee) shall have received executed blank assignments of all Purchased Asset Documents in appropriate form for recording, to the extent such documents are required to be recorded, in the jurisdiction in which the underlying real estate is located, together with executed blank assignments of all applicable Purchased Asset Documents (the "Blank Assignment Documents"); and

(m) Seller shall have provided evidence, satisfactory to Buyer in its reasonable discretion, that the applicable Interim Assignment Documents have been submitted, or are being submitted simultaneously with the consummation of the related Transaction, for recordation in the public recording office of the applicable jurisdiction.

Each Confirmation delivered by Seller shall constitute a certification by Seller that all of the conditions precedent in this Article 6 have been satisfied.

The conditions precedent set forth in this Section 6.02 shall be deemed to be complied with or waived by Buyer on the related Purchase Date; provided that, notwithstanding any of the foregoing, if it is subsequently determined by Buyer that: (i) any untrue or incorrect material information, certificate or similar item was provided to Buyer by or on behalf of Seller on or prior to the related Purchase Date, which information Buyer relied upon in whole or in part in making its decision to enter into the related Transaction, or (ii) Seller failed to provide material information to Buyer on or prior to the related Purchase Date (other than information specified in an Approved Representation Exception) that, if so provided on or prior to the related Purchase Date, may reasonably have resulted in Buyer determining that a condition precedent was not satisfied, in each case, such condition precedent shall be deemed not satisfied for such Purchased Asset, the related Purchase shall be rescinded and Seller shall repurchase the related Purchased Asset pursuant to Section 3.04.

## ARTICLE 7

## REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants, on and as of the date of this Agreement, each

Purchase Date, and at all times when any Repurchase Document or Transaction is in full force and effect as follows:

Section 7.01 Seller. Seller has been duly organized and validly exists in good standing as a limited liability company under the laws of the State of Delaware. Seller (a) has all requisite power, authority, legal right, licenses and franchises, except where failure to have such license or franchise does not have a Material Adverse Effect, (b) is duly qualified to do business in all jurisdictions necessary, except where failure to so qualify does not have a Material Adverse Effect, and (c) has been duly authorized by all necessary action, to (w) own, lease and operate its properties and assets, (x) conduct its business as presently conducted, (y) execute, deliver and perform its obligations under the Repurchase Documents to which it is a party, and (z) originate, service, acquire, own, sell, assign, pledge and repurchase the Purchased Assets. Seller’s exact legal name is set forth in the preamble and signature pages of this Agreement. Seller’s location (within the meaning of Article 9 of the UCC), and the office where Seller keeps all records (within the meaning of Article 9 of the UCC) relating to the Purchased Assets is at the address of Seller referred to in Annex 1. Seller has not changed its name or location within the past twelve (12) months. Seller’s organizational identification number is 6807989 and its tax identification number is 61-1879403. Seller is a one hundred percent (100%) direct and wholly-owned Subsidiary of Pledgor. The fiscal year of Seller is the calendar year. Seller has no Indebtedness, Contractual Obligations or Investments other than (a) ordinary trade payables, (b) in connection with Assets acquired or originated for the Transactions, and (c) under the Repurchase Documents. Seller has no Guarantee Obligations. Seller has no Subsidiaries.

Section 7.02 Repurchase Documents. Each Repurchase Document to which Seller is a party has been duly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforceability may be limited by Insolvency Laws and general principles of equity. The execution, delivery and performance by Seller of each Repurchase Document to which it is a party do not and will not (a) conflict with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under, any (i) Governing Document, Indebtedness, Guarantee Obligation or Contractual Obligation applicable to Seller or any of its properties or assets, (ii) Requirements of Law, or (iii) approval, consent, judgment, decree, order or demand of any Governmental Authority, or (b) result in the creation of any Lien (other than, except with respect to any Purchased Asset, any Liens granted pursuant to a Repurchase Document) on any of the properties or assets of Seller. All approvals, authorizations, consents, orders, filings, notices or other actions of any Person or Governmental Authority required for the execution, delivery and performance by Seller of the Repurchase Documents to which it is a party and the sale of and grant of a security interest in each Purchased Asset to Buyer, have been obtained, effected, waived or given and are in full force and effect. The execution, delivery and performance of the Repurchase Documents do not require compliance by Seller with any “bulk sales” or similar law. There is no material litigation, proceeding or investigation pending or, to the Knowledge of Seller threatened, against Seller, Sponsor, any Intermediate Entity, Pledgor, Guarantor or any of their respective Affiliates before any Governmental Authority (a) asserting the invalidity of any Repurchase Document, (b) seeking to prevent the consummation of any Transaction, or (c) seeking any determination or ruling that could reasonably be expected to have a Material Adverse Effect.

Section 7.03 Solvency. None of Seller, Pledgor, Guarantor or Sponsor is or has ever been the subject of an Insolvency Proceeding. Each of Seller, Pledgor, Guarantor, Sponsor is Solvent and the Transactions do not and will not render Seller and Pledgor, Guarantor, or Sponsor not Solvent. Seller is not entering into the Repurchase Documents or any Transaction with the intent to hinder, delay or defraud any creditor of Seller, Pledgor, Guarantor or Sponsor. Seller has received or will receive reasonably equivalent value for the Repurchase Documents and each Transaction. Seller has adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations. Seller is generally able to pay, and as of the date hereof is paying, its debts as they come due. During the preceding five (5) years, none of Seller, Pledgor, Guarantor or Sponsor has filed or had filed against it any bankruptcy receivership or similar petitions nor has it made any assignments for the benefit of creditors.

Section 7.04 Taxes. Other than as consented to by Buyer, the Sponsor (i) at all times operates its business in a manner not to prevent it from qualifying for status as a REIT under the Code and (ii) from and after the date that the Sponsor’s election to qualify as a REIT under the Code is effective, the Sponsor qualifies as, and has elected to be treated as, a REIT and is in compliance with all requirements and conditions imposed under the Code to allow the Sponsor to maintain its status as a REIT. Seller is a disregarded entity for U.S. federal income tax purposes. Seller, Pledgor and Guarantor have each timely filed all required federal tax returns and all other material tax returns, domestic and foreign, required to be filed by them and have (for all prior fiscal years and for the current fiscal year to date) timely paid all federal and other material taxes (including mortgage recording taxes), assessments, fees, and other governmental charges (whether imposed with respect to their income or any of their properties or assets) which have become due and payable, other than any such taxes, assessments, fees, or other governmental charges that are being contested in good faith by appropriate proceedings diligently conducted and for which appropriate reserves have been established in accordance with GAAP. Other than as disclosed to Buyer, there is no material suit or claim relating to any such taxes now pending or, to the Knowledge of Seller, threatened by any Governmental Authority which is not being contested in good faith as provided above.

Section 7.05 Financial Condition. The audited balance sheet of Guarantor as at the fiscal year most recently ended for which such audited balance sheet is available, and the related audited statements of income, stockholders equity, retained earnings and of cash flows for the fiscal year then ended, setting forth in each case in comparative form the figures for the previous year, reported on without a “going concern” or like qualification arising out of the audit conducted by Guarantor’s independent certified public accountants, copies of which have been delivered to Buyer, are complete and correct and present fairly the financial condition of Guarantor as of such date and the results of its operations and cash flows for the fiscal year then ended. All such financial statements, including related schedules and notes, were prepared in accordance with GAAP except as disclosed therein. Guarantor has no material contingent liability or liability for taxes or any long term lease or unusual forward or long term commitment, including any Derivatives Contract, which is not accounted for in the foregoing statements or notes unless the foregoing is not required in accordance with GAAP. Other than as disclosed in a public Form 8-K filing, since the date of the financial statements and other information delivered to Buyer prior to the Closing Date, neither Seller nor Guarantor has sold, transferred or otherwise disposed of any material part of its property or assets (except pursuant to the Repurchase Documents) or acquired any property or assets (including Equity Interests of any other Person) that are material in relation to the financial condition of Seller.

Section 7.06 True and Complete Disclosure. The information, reports, certificates, documents, financial statements, operating statements, forecasts, books, records, files, exhibits and schedules furnished by or on behalf of Seller to Buyer in connection with the Repurchase Documents and the Transactions, when taken as a whole, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements herein or therein, in light of the circumstances under which they were made, not misleading. All written information furnished after the date hereof by or on behalf of Seller to Buyer in connection with the Repurchase Documents and the Transactions will be true, correct and complete in all material respects, or in the case of projections will be based on reasonable estimates prepared and presented in good faith, in each case, on the date as of which such information is stated or certified.

Section 7.07 Compliance with Laws. Seller, Pledgor, Sponsor and Guarantor have complied in all respects with all Requirements of Law, and no Purchased Asset contravenes any Requirements of Laws. None of Seller, Sponsor, Guarantor nor any Subsidiaries or Parents of Seller, Sponsor or Guarantor, and to the knowledge of Seller, Sponsor or Guarantor, no Affiliate of Seller, Sponsor or Guarantor (i) is in violation of any Sanctions or (ii) is a Sanctioned Target. The proceeds of any Transaction have not been and will not be used, directly or indirectly, to fund any operations in, finance any investments or activities in or make any payments to a Sanctioned Target or otherwise in violation of Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws. Neither Seller nor any Affiliate of Seller (a) is a "broker" or "dealer" as defined in, or could be subject to a liquidation proceeding under, the Securities Investor Protection Act of 1970, or (b) is subject to regulation by any Governmental Authority limiting its ability to incur the Repurchase Obligations. No properties presently or previously owned or leased by Seller, or to the Knowledge of Seller, Pledgor, Sponsor or Guarantor, or any of their respective predecessors, contain or previously contained any Materials of Environmental Concern that constitute or constituted a violation of Environmental Laws or reasonably could be expected to give rise to liability of Seller, Pledgor, Sponsor or Guarantor thereunder. Seller, Pledgor, Sponsor and Guarantor each have no Knowledge of any violation, alleged violation, non-compliance, liability or potential liability of Seller, Pledgor, Sponsor or Guarantor under any Environmental Law. Materials of Environmental Concern have not been Released, on properties presently or previously owned or leased by Seller, Pledgor, Sponsor or Guarantor, in violation of Environmental Laws or in a manner that reasonably could be expected to give rise to liability of Seller, Pledgor, Sponsor or Guarantor thereunder. Seller and all Affiliates of Seller are in compliance with all Anti-Corruption Laws. Neither Seller nor any Affiliate of Seller has made, offered, promised or authorized a payment of money or anything else of value (a) in order to assist in obtaining or retaining business for or with, or directing business to, any foreign official, foreign political party, party official or candidate for foreign political office, (b) to any foreign official, foreign political party, party official or candidate for foreign political office, or (c) with the intent to induce the recipient to misuse his or her official position to direct business wrongfully to Seller, any Affiliate of Seller or any other Person, in violation of any Anti-Corruption Law.

Section 7.08 Compliance with ERISA. (a) None of Seller, Sponsor, Pledgor or Guarantor has any employees as of the date of this Agreement. Neither Seller nor any ERISA Affiliate maintains, sponsors, participates in or contributes to (or has an obligation to contribute to), or has ever maintained, established, sponsored, participated in or contributed to (or had any obligation to contribute to), or has any liability in respect of, a Plan or a Multiemployer Plan.

(b) Each of Seller, Pledgor and Guarantor either (i) qualifies as a VCOC or a REOC, (ii) complies with an exception set forth in the Plan Asset Regulations such that the assets of such Person would not be subject to Title I of ERISA and/or Section 4975 of the Code, or (iii) does not hold any "plan assets" within the meaning of the Plan Asset Regulations that are subject to ERISA.

(c) Assuming that no portion of the Purchased Assets are funded by Buyer with "plan assets" within the meaning of the Plan Asset Regulations (unless Buyer is relying on an applicable and appropriate prohibited transaction exemption, the conditions of which are satisfied), none of the transactions contemplated by the Repurchase Documents will constitute a nonexempt prohibited transaction (as such term is defined in Section 4975 of the Code or Section 406 of ERISA) that could subject the Buyer to any tax or penalty or prohibited transactions imposed under Section 4975 of the Code or Section 502(i) of ERISA.

Section 7.09 No Default or Material Adverse Effect. No Default exists on the Closing Date, each Purchase Date, each Future Funding Date, the date of each Additional Advance and on the date of each reallocation of Margin Excess and no Event of Default exists.

No default or "event of default" (however defined) exists under any Indebtedness, Guarantee Obligations or Contractual Obligations of Seller. Seller believes that it is and will be able to pay and perform each agreement, duty, obligation and covenant contained in the Repurchase Documents and Purchased Asset Documents to which it is a party, and that it is not subject to any agreement, obligation, restriction or Requirements of Law that would unduly burden its ability to do so or could reasonably be expected to have a Material Adverse Effect. Seller has no Knowledge of any actual development, event or other fact that could reasonably be expected to have a Material Adverse Effect, other than any such development, event or fact with respect to which Seller has delivered detailed written notice thereof to Buyer. No Internal Control Event has occurred. Seller has delivered to Buyer all underlying servicing agreements (or provided Buyer with access to a service, internet website or other system where Buyer can successfully access such agreements) with respect to the Purchased Assets, and to Seller's Knowledge no material default or "event of default" (however defined) exists thereunder.

No "event of default" (however defined) on the part of Guarantor, Sponsor or Pledgor exists under any credit facility, repurchase facility or substantially similar facility that is presently in effect, to which Guarantor, Sponsor or Pledgor is a party, other than any such "event of default" with respect to which Seller has delivered written notice thereof to Buyer.

Section 7.10 Purchased Assets. Each Purchased Asset is an Eligible Asset. Each representation and warranty of Seller set forth in the Repurchase Documents (including in Schedule 1 applicable to the Class of such Purchased Asset) and the Purchased Asset Documents with respect to each Purchased Asset is true and correct, except as otherwise disclosed in writing on the executed copy of the related Confirmation. The review and inquiries made on behalf of Seller in connection with the next preceding sentence have been made by Persons having the requisite expertise, knowledge and background to verify such representations and warranties. Seller has complied with all requirements of the Custodial Agreement with respect to each Purchased Asset, including delivery to Custodian of all required Purchased Asset Documents. No Purchased Asset is or has been the subject of any compromise, adjustment, extension, satisfaction, subordination, rescission, setoff, counterclaim, defense, abatement, suspension, deferment, deduction, reduction, termination or modification, whether arising out of transactions concerning such Purchased Asset or otherwise, by Seller or any Affiliate of Seller, any Transferor, any Underlying Obligor, Guarantor or any other Person. The purchase of each proposed Purchased Asset was underwritten in accordance with and satisfies applicable standards established by Seller or any Affiliate of Seller. None of the Purchased Asset Documents has any marks or notations indicating that it has been sold, assigned, pledged, encumbered or otherwise conveyed to any Person other than Buyer. If any Purchased Asset Document requires the holder or transferee of the related Purchased Asset to be a qualified transferee, qualified institutional lender or qualified lender (however defined), Seller meets such requirement. Assuming that Buyer also meets such requirement, the assignment and pledge of such Purchased Asset to Buyer pursuant to the Repurchase Documents do not violate such Purchased Asset Document. Seller and all Affiliates of Seller have sold and transferred all Servicing Rights with respect to the Purchased Assets to Buyer. At Buyer's election at any time during the term of this Agreement, and, so long as no Default or Event of Default has occurred and is continuing, upon at least five (5) Business Days' prior written notice thereof to Seller, Buyer may, at Seller's sole cost and expense, complete and record any or all of the Blank

Assignment Documents as further evidence of Buyer's ownership interest in the related Purchased Assets.

Section 7.11 Purchased Assets Acquired from Transferors. With respect to each Purchased Asset purchased by Seller or an Affiliate of Seller from a Transferor, (a) such Purchased Asset was acquired and transferred pursuant to a Purchase Agreement, (b) such Transferor received reasonably equivalent value in consideration for the transfer of such Purchased Asset, (c) no such transfer was made for or on account of an antecedent debt owed by such Transferor to Seller or an Affiliate of Seller, (d) no such transfer is or may be voidable or subject to avoidance under the Bankruptcy Code, (e) if Seller acquired the Purchased Asset from any of its Affiliates, Seller has delivered to Buyer an opinion of counsel regarding the true sale of the purchase of such Asset by Seller and, if such Asset was acquired by an Affiliate of Seller from another Affiliate of Seller, the true sale of the purchase of the Asset by the Affiliate of Seller from the Transferor Affiliate, which opinions shall be in form and substance satisfactory to Buyer, and (f) if Seller acquired the Purchased Asset from any other Transferor, the representations and warranties made by such Transferor to Seller or such Affiliate in such Purchase Agreement, if any, are hereby incorporated herein *mutatis mutandis* and are hereby remade by Seller to Buyer on each date as of which they speak in such Purchase Agreement. If such Purchased Asset was acquired by Seller or such Affiliate of Seller via a Purchase Agreement and the related Transferor has therein granted a security interest in each such Purchased Asset to either Seller or such Affiliate, then Seller or such Affiliate has filed one or more UCC financing statements against the Transferor to perfect such security interest, assigned such financing statements in blank and delivered such blank assignments to Buyer or Custodian.

Section 7.12 Transfer and Security Interest. The Repurchase Documents constitute a valid and effective transfer to Buyer of all right, title and interest of Seller in, to and under all Purchased Assets (together with all related Servicing Rights), free and clear of any Liens. With respect to the protective security interest granted by Seller in Section 11.01, upon the delivery of the Confirmations and the Purchased Asset Documents to Custodian, the execution and delivery of the Controlled Account Agreement and the filing of the UCC financing statements as provided herein, such security interest shall be a valid first priority perfected security interest to the extent such security interest can be perfected by possession, filing or control under the UCC. Upon receipt by Custodian of each Purchased Asset Document required to be endorsed in blank by Seller and payment by Buyer of the Purchase Price for the related Purchased Asset, Buyer shall either own such Purchased Asset and the related Purchased Asset Documents or have a valid first priority perfected security interest in such Purchased Asset Document. The Purchased Assets constitute the following, as defined in the UCC: a general intangible, instrument, investment property, security, deposit account, financial asset, uncertificated security, securities account, or security entitlement. Seller has not sold, assigned, pledged, granted a security interest in, encumbered or otherwise conveyed any of the Purchased Assets to any Person other than pursuant to the Repurchase Documents. Seller has not authorized the filing of and has no Knowledge of any UCC financing statements filed against Seller as debtor that include the Purchased Assets, other than any financing statement that has been terminated or filed pursuant to this Agreement.

Section 7.13 No Broker. Neither Seller nor any Affiliate of Seller has dealt with any broker, investment banker, agent or other Person, except for Buyer or an Affiliate of Buyer, who may be entitled to any commission or compensation in connection with any Transaction.

Section 7.14 Interest Rate Protection Agreements. On the Purchase Date of any Hedge Required Asset, (a) Seller has entered into all Interest Rate Protection Agreements required under Section 8.10, (b) each such Interest Rate Protection Agreement is in full force and effect, (c) no termination event, default or event of default (however defined) exists thereunder, and (d) Seller has effectively assigned or pledged to Buyer all Seller's rights (but none of its obligations) under such Interest Rate Protection Agreements, subject to, in the case of a Cleared Swap, (i) the rights, if any, of the related DCO and FCM and (ii) any limitation on assignment or pledge of Seller required by the DCO or FCM.

Section 7.15 Separateness. Seller is in compliance with the requirements of Article 9.

Section 7.16 Investment Company Act. None of Seller, Pledgor or Guarantor is required to be registered as, or is controlled by, an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act, or otherwise required to register thereunder. Seller is not relying on an exemption from the definition of "investment company" under Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act.

Section 7.17 Location of Books and Records. The location where Seller keeps its books and records, including all computer tapes and records relating to the Purchased Assets is its chief executive office.

Section 7.18 Chief Executive Office; Jurisdiction of Organization. On the Closing Date, each of Seller's and Pledgor's chief executive office, is, and has been, located at 590 Madison Avenue, 34th Floor, New York, New York 10022. On the Closing Date, (x) Seller's jurisdiction of organization is Delaware, (y) Pledgor's jurisdiction of organization is Delaware, (z) Guarantor's jurisdiction of organization is Delaware. Each of Seller and Pledgor shall provide Buyer with thirty (30) days advance notice of any change in its principal office or place of business or jurisdiction. None of Seller or Pledgor has a trade name. During the preceding five (5) years, neither Seller nor Pledgor has been known by or done business under any other name, corporate or fictitious.

Section 7.19 Anti-Money Laundering Laws and Anti-Corruption Laws. The operations of each of Seller, Sponsor and Guarantor are, and have been, conducted at all times in compliance with all applicable Anti-Money Laundering Laws and Anti-Corruption Laws. No litigation, regulatory or administrative proceedings of or before any court, tribunal or agency with respect to any Anti-Money Laundering Laws or Anti-Corruption Laws have been started or (to the best of its knowledge and belief) threatened against each of Seller and Guarantor or to the knowledge of Seller, Sponsor, or Guarantor, any Affiliates of Seller, Sponsor, or Guarantor.

Section 7.20 Sanctions. None of Seller, Sponsor, Guarantor, any Subsidiaries or Parents of Seller or Guarantor and, to the knowledge of Seller or Guarantor, no Affiliate of Seller, Sponsor, or Guarantor (a) is a Sanctioned Target, (b) is controlled by or is acting on behalf of a Sanctioned Target, or (c) to the best knowledge of Seller, Sponsor, or Guarantor after due inquiry, is under investigation for an alleged breach of Sanctions by a Governmental Authority that enforces Sanctions. To Seller's knowledge, no Investor is a Sanctioned Target.

Section 7.21 Beneficial Ownership Certification. The information included in each Beneficial Ownership Certification is true and correct in all respects, in each case as of the date of delivery.

## ARTICLE 8 COVENANTS OF SELLER

From the date hereof until the Repurchase Obligations are indefeasibly paid in full

and the Repurchase Documents are terminated, Seller shall perform and observe the following covenants, which shall be given independent effect (so that if a particular action or condition is prohibited by any covenant, the fact that it would be permitted by an exception to or be otherwise within the limitations of another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists):

Section 8.01 Existence; Governing Documents; Conduct of Business. Seller shall (a) preserve and maintain its legal existence, (b) qualify and remain qualified in good standing in each jurisdiction where the failure to be so qualified would have a Material Adverse Effect, (c) comply with its Governing Documents, including all single purpose entity provisions, and (d) not modify, amend or terminate its Governing Documents or divide itself into two or more separate limited liability companies. Seller shall (a) continue to engage in the same (and no other) general lines of business as presently conducted by it, (b) maintain and preserve all of its material rights, privileges, licenses and franchises necessary for the operation of its business, and (c) maintain Seller's status as a qualified transferee, qualified lender or any similar term (however defined) under the Purchased Asset Documents. Seller shall not (A) change its name, organizational number, tax identification number, fiscal year, method of accounting, identity, structure or jurisdiction of organization (or have more than one such jurisdiction), move the location of its principal place of business and chief executive office (as defined in the UCC) from the location referred to in Section 7.19, or (B) move, or consent to Custodian moving, the Purchased Asset Documents from the location thereof on the applicable Purchase Date for the related Purchased Asset, unless in each case Seller has given at least thirty (30) days prior notice to Buyer and has taken all actions required under the UCC to continue the first priority perfected security interest of Buyer in the Purchased Assets. Seller shall enter into each Transaction as principal.

Section 8.02 Compliance with Laws, Contractual Obligations and Repurchase Documents. Seller shall comply in all material respects with each and every Requirements of Law, including those relating to any Purchased Asset. No part of the proceeds of any Transaction shall be used for any purpose that violates Regulation T, U or X of the Board of

Governors of the Federal Reserve System. Seller shall maintain the Custodial Agreement and Controlled Account Agreement in full force and effect. Seller shall not directly or indirectly enter into any agreement that would be violated or breached by any Transaction or the performance by Seller of any Repurchase Document.

Section 8.03 Structural Changes. Seller shall not enter into any merger or consolidation, or adopt, file or effect a Division, or liquidate, wind up or dissolve, or sell all or substantially all of its assets or properties, divide itself into two or more limited liability companies, or permit any changes in the ownership of the Equity Interests of Seller, without the consent of Buyer. Seller shall ensure that all Equity Interests of Seller shall continue to be directly owned by the owner or owners thereof as of the date hereof. Seller shall ensure that neither the Equity Interests of Seller nor any property or assets of Seller shall be pledged to any Person other than Buyer. Seller shall not enter into any transaction with an Affiliate of Seller (other than the sale, assignment or other transfer of an Asset to an Affiliate with respect to a repurchased Purchased Asset or a proposed Purchased Asset which does not become subject to a Transaction) unless (a) Seller notifies Buyer of such transaction at least ten (10) days before entering into it, and (b) such transaction is on market and arm's-length terms and conditions, as demonstrated in Seller's notice.

Section 8.04 Protection of Buyer's Interest in Purchased Assets. With respect to each Purchased Asset, Seller shall take all action necessary or required by the Repurchase Documents, the Purchased Asset Documents and each and every Requirements of Law, or requested by Buyer, to perfect, protect and more fully evidence the security interest granted in the Purchase Agreements and Buyer's ownership of and first priority perfected security interest in such Purchased Asset and related Purchased Asset Documents, including executing or causing to be executed (a) such other instruments or notices as may be necessary or appropriate and filing and maintaining effective UCC financing statements, continuation statements and assignments and amendments thereto, and (b) all documents necessary to both collaterally and absolutely and unconditionally assign all rights (but none of the obligations) of Seller under each Purchase Agreement, in each case as additional collateral security for the payment and performance of each of the Repurchase Obligations. Seller shall (a) not assign, sell, transfer, pledge, hypothecate, grant, create, incur, assume or suffer or permit to exist any security interest in or Lien (other than, except with respect to any Purchased Asset, any Liens granted pursuant to a Repurchase Document) on any Purchased Asset to or in favor of any Person other than Buyer, (b) defend the right, title and interest of Buyer in and to all Purchased Assets against the claims and demands of all Persons whomsoever. Notwithstanding the foregoing, (i) if Seller grants a Lien on any Purchased Asset in violation of this Section 8.04 or any other Repurchase Document, Seller shall defend such Purchased Asset against, and take such action as is necessary to remove, any such Lien, and be deemed to have simultaneously granted an equal and ratable Lien on such Purchased Asset in favor of Buyer to the extent such Lien has not already been granted to Buyer; provided, that such equal and ratable Lien shall not cure any resulting Event of Default. Seller shall not materially amend, modify, waive or terminate any provision of any Purchase Agreement or Servicing Agreement, and (ii) to the extent any additional limited liability company is formed by a Division of Seller (and without prejudice to Sections 8.01, 8.03 and 9.01 hereof), Seller shall cause any such Division LLC to assign, pledge and grant to Buyer, for no additional consideration, all of its assets, and shall cause any owner of each such Division LLC to pledge all of the Equity Interests and any rights in connection therewith of each such

Division LLC to Buyer, for no additional consideration, in support of all Repurchase Obligations in the same manner and to the same extent as the assignment, pledge and grant by Seller of all of Seller's assets hereunder, and in the same manner and to the same extent as the pledge by Pledgor of all of Pledgor's right, title and interest in all of the Equity Interests of Seller and any rights in connection therewith, in each case pursuant to the Pledge Agreement. Seller shall not, or permit any Servicer to make any Material Modification to any Purchased Asset or Purchased Asset Document, without the prior written consent of Buyer. Seller shall use appropriate documentation to evidence the interests granted to Buyer hereunder. Seller shall not take any action to cause any Purchased Asset that is not evidenced by an instrument or chattel paper (as defined in the UCC) to be so evidenced. If a Purchased Asset becomes evidenced by an instrument or chattel paper, the same shall be immediately delivered to Custodian (or a bailee) on behalf of Buyer, together with endorsements required by Buyer.

Section 8.05 Actions of Seller Relating to Distributions, Indebtedness, Guarantee Obligations, Contractual Obligations, Investments and Liens. Seller shall not declare or make any payment on account of, or set apart assets for, a sinking or similar fund for the purchase, redemption, defeasance, retirement or other acquisition of any Equity Interest of Seller, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of Seller. Seller shall not contract, create, incur, assume or permit to exist any Indebtedness, Guarantee Obligations, Contractual Obligations or Investments, except to the extent (a) arising or existing under the Repurchase Documents, (b) arising or existing pursuant to any Retained Interests, (c) existing as of the Closing Date, as referenced in the financial statements delivered to Buyer prior to the Closing Date, and any renewals, refinancings or extensions thereof in a principal amount not exceeding that outstanding as of the date of such renewal, refinancing or extension, (d) incurred after the Closing Date to originate or acquire Assets to provide funding with respect to Assets, or

(e) related to Interest Rate Protection Agreements pursuant to Section 8.10 or entered into in order to manage risks related to Assets and (e) permitted by the terms of Section 9.01. Seller shall not (a) contract, create, incur, assume or permit to exist any Lien on or with respect to any of its property or assets (including the Purchased Assets) of any kind (whether real or personal, tangible or intangible), whether now owned or hereafter acquired, other than, except with respect to any Purchased Asset, any Liens granted pursuant to a Repurchase Document, or (b) except as provided in the preceding clause (a), grant, allow or enter into any agreement or arrangement with any Person that prohibits or restricts or purports to prohibit or restrict the granting of any Lien on any of the foregoing.

Section 8.06 Maintenance of Property, Insurance and Records. Seller shall (a) keep all of its physical personal property, if any, useful and necessary in its business in good working order and condition, (b) maintain insurance on all its properties in accordance with customary and prudent practices of companies engaged in the same or a similar business, and (c) furnish to Buyer upon request information and certificates with respect to such insurance. Seller shall maintain and implement administrative and operating procedures (including the ability to recreate records evidencing the Purchased Assets if the original records are destroyed) and shall keep and maintain all documents, books, records and other information (including with respect to the Purchased Assets) that are reasonably necessary or advisable in the conduct of its business.

Section 8.07 Delivery of Income. Seller shall, or shall cause the Servicer to, irrevocably instruct and cause the Underlying Obligors under the Purchased Assets and all other applicable Persons to, remit all Income in respect of the Purchased Assets to Servicer for deposit by Servicer into the Servicer Account, and shall cause Servicer to transfer such Income into the Waterfall Account in accordance with Section 5.01 hereof on the day the related payments are due. If an Event of Default exists, or if any contrary instructions are delivered to any Underlying Obligor or any Underlying Obligor remits any Income to any other account, Buyer may, in addition to any other rights and remedies available to Buyer under the Repurchase Documents or at law or equity, complete the applicable Irrevocable Redirection Notices and deliver same to the Underlying Obligors to cause the Underlying Obligors under the Purchased Assets and all other applicable Persons to remit all Income in respect of the Purchased Assets to the Waterfall Account. To the extent delivered in accordance with the foregoing, Seller (a) shall, and shall cause each Servicer to comply with and enforce each Irrevocable Redirection Notice, (b) shall not amend, modify, waive, terminate or revoke any Irrevocable Redirection Notice without Buyer's consent, and (c) shall take all reasonable steps to enforce each Irrevocable Redirection Notice. In connection with each principal payment or prepayment under a Purchased Asset, Seller shall provide or cause to be provided to Buyer and Servicer sufficient detail to enable Buyer and Servicer to identify the Purchased Asset to which such payment applies. If Seller receives any rights, whether in addition to, in substitution of, as a conversion of, or in exchange for any Purchased Assets, or otherwise in respect thereof, Seller shall accept the same as Buyer's agent, hold the same in trust for Buyer and immediately deliver the same to Buyer or its designee in the exact form received, together with duly executed instruments of transfer, stock powers or assignment in blank and such other documentation as Buyer shall reasonably request. If any Income is received by Seller, Pledgor, Guarantor or any Affiliate of Seller, Pledgor or Guarantor, Seller shall directly deposit such Income into the Waterfall Account within two (2) Business Days after receipt, and, until so paid or delivered, hold such Income in trust for Buyer, segregated from other funds of Seller.

Section 8.08 Delivery of Financial Statements and Other Information. Seller shall deliver the following to Buyer, as soon as available and in any event within the time periods specified:

(a) within forty-five (45) days after the end of each of the first three (3) fiscal quarters of Guarantor, (i) the unaudited balance sheets of Guarantor as at the end of such period,

(ii) the related unaudited statements of income, retained earnings, stockholders equity and cash flows for such period and the portion of the fiscal year through the end of such period, setting forth in each case in comparative form the figures for the previous year, and (iii) a Compliance Certificate;

(b) within ninety (90) days after the end of each fiscal year of Guarantor, (i) the audited balance sheets of Guarantor as at the end of such fiscal year, (ii) the related statements of income, retained earnings and cash flows for such year, setting forth in each case in comparative form the figures for the previous year, (iii) an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall not be qualified as to scope of audit or going concern and shall state that said financial statements fairly present the financial condition and results of operations of Guarantor as at the end of and for such fiscal year in accordance with GAAP, and (iv) a Compliance Certificate;

(c) all reports submitted to Guarantor by independent certified public accountants in connection with each annual, interim or special audit of the books and records of and Guarantor made by such accountants, including any management letter commenting on and Guarantor's internal controls;

(d) with respect to each Purchased Asset and related Mortgaged Property serviced by a Servicer other than Wells Fargo Bank, National Association: (i) upon request by Buyer, but not more frequently than once per calendar quarter,, an asset management report produced by Seller with respect to the Purchased Assets in the ordinary course including property-level information, and (ii) no less frequently than once per calendar month, to the extent prepared by Seller, or received by Seller from any Underlying Obligor, any Servicer or from any other source, all remittance, servicing, operating and financial statements of Underlying Obligors, and all modifications or updates to the items contained in the Underwriting Package, which may be delivered to Buyer either in electronic or in physical format; provided that Seller uses reasonable efforts to require each Underlying Obligor to comply with the reporting requirements of the related Purchased Asset Documents;

(e) all financial statements, reports, notices and other documents that Sponsor sends to holders of its Equity Interests or makes to or files with any Governmental Authority, promptly after the delivery or filing thereof;

(f) any other material agreements, correspondence, documents or other information not included in an Underwriting Package which is related to Seller or the Purchased Assets, as soon as possible after the discovery thereof by Seller, Sponsor, any Intermediate Entity, Pledgor, Guarantor or any Affiliate of Seller, Sponsor, any Intermediate Entity, Pledgor or Guarantor, which may be delivered to Buyer either in electronic or in physical format; and

(g) such other information regarding the financial condition, operations or business of Seller, Pledgor, Guarantor or any Underlying Obligor as Buyer may reasonably request including, without limitation, any such information that is otherwise necessary to allow Buyer to monitor compliance with the terms of the Repurchase Documents.

Documents required to be delivered pursuant to this Section 8.08 may be delivered by electronic communication (including email or otherwise) and if so delivered, shall be deemed to have been delivered on the date (i) on which the applicable party transmits such documents via email, (ii) on which the applicable party posts such documents, or provides a link thereto, on the applicable party's website on the Internet at the website address listed on Annex 1 (which website address may be updated by Seller by notice to the Buyer), so long as Guarantor delivers email notice thereof to Buyer on the date of any such electronic posting of any such information, describing such posted materials in reasonable detail, together with an electronic link thereto, or (iii) on which such documents are posted on the applicable party's behalf on an Internet or intranet website, if any, to which the Buyer has access (whether a commercial, third-party website or whether sponsored by the Buyer, so long as Guarantor delivers email notice thereof to Buyer on the date of any such electronic posting of any such information, describing such posted materials in reasonable detail, together with an electronic link thereto).

Section 8.09 Delivery of Notices. Seller shall immediately notify Buyer of the occurrence of any of the following of which Seller has Knowledge, together with a certificate of a Responsible Officer of Seller setting forth details of such occurrence and any action Seller has taken or proposes to take with respect thereto:

(a) a Representation Breach or any MTM Representation being untrue or incorrect in any respect;

(b) any of the following: (i) with respect to any Purchased Asset or related underlying Mortgaged Property: material change in market value, material loss or damage, material licensing or permit issues, violation of Requirements of Law, discharge of or damage from Materials of Environmental Concern or any other actual or expected event or change in circumstances that, with respect to each of the foregoing, could reasonably be expected to result in a default or material decline in value or cash flow, and (ii) with respect to Seller: violation of Requirements of Law, material decline in the value of Seller's assets or properties, an Internal Control Event or other event or circumstance that, with respect to each of the foregoing, could reasonably be expected to have a Material Adverse Effect;

(c) the existence of any Default, Event of Default or material default under or related to any Purchased Asset, any Purchased Asset Document, or any Indebtedness, Guarantee Obligation or Contractual Obligation of Seller;

(d) the resignation or termination of any Servicer under any Servicing Agreement with respect to any Purchased Asset;

(e) the establishment of a rating by any Rating Agency applicable to Seller, Pledgor, Guarantor or Sponsor and any downgrade in or withdrawal of such rating once established;

(f) the commencement of, settlement of or material judgment in any litigation, action, suit, arbitration, investigation or other legal or arbitrable proceedings before any Governmental Authority that (i) affects Seller, Pledgor, any Purchased Asset, the Pledged Collateral or any Mortgaged Property, (ii) has been disclosed in a public filing by Sponsor (whether required or voluntary) and affects Guarantor or Sponsor in an amount, individually or in the aggregate, that would be material if any such proceeding is decided adversely to such Person, (iii) questions or challenges the validity or enforceability of any Repurchase Document, Transaction, Purchased Asset or Purchased Asset Document, or (iv) individually or in the aggregate, if adversely determined, could reasonably be likely to have a Material Adverse Effect;

(g) each change in the location of its principal place of business and chief executive office, from the location referred to in Annex I; and

(h) for each change in the Book Value of any Purchased Asset (but not more frequently than once in each calendar month), the amount of each such change, which notice shall also indicate the percentage of each such change (if any) caused by a change in credit spreads.

Section 8.10 Hedging. (a) With respect to each Purchased Asset that is a Hedge Required Asset, Seller shall enter into one or more one-hundred percent (100%) cash collateralized Interest Rate Protection Agreement(s) at the direction of and in a form acceptable to Buyer. Seller shall take such actions as Buyer deems necessary to perfect the security interest granted in each Interest Rate Protection Agreement (including any Cleared Swap) pursuant to Section 11.01, and shall assign or pledge to Buyer, which assignment or pledge shall (other than in the case of a Cleared Swap) be consented to in writing by each Hedge Counterparty, all of Seller's rights (but none of the obligations) in, to and under each Interest Rate Protection Agreement, subject to, in the case of a Cleared Swap, (i) the rights, if any, of the related DCO and FCM and (ii) any limitation on assignment or pledge by Seller required by the DCO or FCM. Each Interest Rate Protection Agreement shall contain provisions acceptable to Buyer for additional credit support in the event the rating of any Rating Agency assigned to the Hedge Counterparty (other than an Affiliated Hedge Counterparty) is downgraded or withdrawn, in which event Seller shall ensure that such additional credit support is provided or promptly, subject to the approval of Buyer, enter into new Interest Rate Protection Agreements with respect to the related Purchased Assets with a replacement Hedge Counterparty.

(b) Prior to the Purchase Date of the first Purchased Asset that is also a Hedge Required Asset, Seller shall establish the Hedge Account at the Deposit Account Bank. Buyer shall have sole dominion and control (including, without limitation, "control" within the meaning of Section 9-104(a)) of the UCC) over the Hedge Account. Except as expressly set forth in this Section 8.10(b), Seller shall not have any right to withdraw amounts on deposit in the Hedge Account without the prior written consent of Buyer. With respect to any Interest Rate Protection Agreement entered into with respect to a Purchased Asset, Seller shall direct, in writing, the related Hedge Counterparty, or in the case of a Cleared Swap, the related FCM, to (i) make payment of all regularly scheduled payments and termination payments payable to Seller and (ii) deliver all collateral, including any variation margin payments, returned by the Hedge Counterparty to Seller with respect to such Interest Rate Protection Agreement into the Hedge Account. Prior to the occurrence of a Default or an Event of Default, Seller may withdraw from the Hedge Account any amounts representing Permitted Withdrawals. With respect to any Other Permitted Withdrawal, at least two (2) Business Days' prior to the applicable withdrawal date, Seller shall deliver to Buyer written notice of its intent to make such Other Permitted Withdrawal which notice, at a minimum, provides evidence that the amounts remaining on deposit in the Hedge Account are at least equal to the aggregate amount of collateral, including any variation margin payments, returned by the related Hedge Counterparties to Seller (and not otherwise re-delivered to such Hedge Counterparties) that relate to Interest Rate Protection Agreements entered into by Seller with respect to Assets that remain Purchased Assets, and as soon as practicable thereafter any documentation related thereto reasonably requested by Buyer. Buyer shall have two (2) Business Days, from the later of (x) receipt of such notice or (y) receipt of any related documentation requested by Buyer, to notify Seller that, in Buyer's reasonable discretion, it has determined that the withdrawal is not an Other Permitted Withdrawal. In such event, Seller shall not be permitted to make such Other Permitted Withdrawal. If Buyer does not object to such Other Permitted Withdrawal within such two (2) Business Day period, Seller shall be permitted to withdraw from the Hedge Account any amounts representing the Other Permitted Withdrawal set forth in Seller's previously delivered notice. Notwithstanding anything set forth in this Section 8.10(b) to the contrary, all rights of Seller to withdraw amounts on deposit in the Hedge Account without Buyer's prior written consent shall terminate upon the occurrence of any Default or Event of Default hereunder. Any withdrawal from the Hedge Account not in compliance with this Section 8.10(b) shall result in an Event of Default hereunder.

(c) For the avoidance of doubt, to the extent amounts on deposit in the Hedge Account are not sufficient to satisfy collateral posting obligations owed by Seller to a Hedge Counterparty, Seller shall satisfy such obligations from amounts available to Seller from a source other than the Servicer Account or the Waterfall Account.

(d) Following the occurrence of an Event of Default, Buyer shall have the right to apply all amounts on deposit in the Hedge Account to the outstanding Repurchase Obligations in such order and manner as Buyer determines in its discretion.

(e) Promptly upon receipt, Seller shall deliver to Buyer a copy of each “daily statement” report from each applicable Hedge Counterparty and such other information reasonably requested by Buyer with respect to amounts required to be on deposit in the Hedge Account.

Section 8.11 Escrow Imbalance. Seller shall, no later than five (5) Business Days after learning of any material overdraw, deficit or imbalance in any escrow or reserve account relating to a Purchased Asset, correct and eliminate the same, including by depositing its own funds into such account.

Section 8.12 Pledge Agreement. Seller shall not take any direct or indirect action inconsistent with the Pledge Agreement or the security interest granted thereunder to Buyer in the Pledged Collateral. Seller shall not permit any additional Persons to acquire direct Equity Interests in Seller other than the direct Equity Interests owned by Pledgor and pledged to Buyer on the Closing Date, and Seller shall not permit any sales, assignments, pledges or transfers of the direct Equity Interests in Seller other than to Buyer.

Section 8.13 Taxes. Seller will continue to be a disregarded entity for U.S. federal income tax purposes. Other than as consented to by Buyer, the Sponsor shall operate its business in a manner not to prevent it from qualifying for status as a REIT under the Code and, from and after the date that the Sponsor’s election to qualify as a REIT under the Code is effective, the Sponsor shall maintain its status as, and election to be treated as, a REIT under the Code; provided that, the Sponsor shall elect to be taxed as a REIT under the Code commencing with its 2018 taxable year. Seller and Guarantor will each timely file all required federal tax returns and all other material tax returns, domestic and foreign, required to be filed by them and will timely pay all other material taxes (including mortgage recording taxes), assessments, fees, and other governmental charges (whether imposed with respect to their income or any of their properties or assets) which become due and payable, other than any such taxes, assessments, fees, or other governmental charges that are being contested in good faith by appropriate proceedings diligently conducted and for which appropriate reserves are established in accordance with GAAP. Seller will provide Buyer with written notice of any material suit or claim relating to any such taxes, whether pending or, to the Knowledge of Seller, threatened in writing by any Governmental Authority.

Section 8.14 Management Internalization. Seller shall not permit Guarantor or Sponsor to internalize its management without Buyer's prior written approval, which shall not be unreasonably withheld.

Section 8.15 Transaction with Affiliates. Seller will not, directly or indirectly,

(i) make any investment in an Affiliate (whether by means of share purchase; capital contribution; loan, advance or any other extension of credit, including repurchase agreements, securities lending transactions or any transaction involving a Derivatives Contract; deposit, or otherwise including any agreement or commitment to enter into any of the foregoing) or (ii) transfer, sell, lease, assign or otherwise dispose of any tangible or intangible property to an Affiliate or enter into any other transaction, directly or indirectly, with or for the benefit of any Affiliate (including, without limitation, guarantees and assumptions of obligations of an Affiliate) except, in each case, in compliance with the Repurchase Documents, the Investment Company Act and any other Requirements of Law.

Section 8.16 Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(a) The proceeds of any Transaction shall not be used, directly or indirectly, for any purpose which would breach any applicable Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(b) Seller, Sponsor, each Intermediate Entity and Guarantor shall each (i) conduct its business in compliance with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions; and (ii) maintain policies and procedures designed to promote and achieve compliance with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(c) The repurchase of any Purchased Asset or any other payment due to Buyer under this Agreement or any other Repurchase Document shall not be funded, directly or indirectly, with proceeds derived from a transaction that would be prohibited by Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions, or in any manner that would cause Seller, Sponsor, any Intermediate Entity or Guarantor or to the knowledge of Seller, Sponsor, any Intermediate Entity or Guarantor, any Affiliates of Seller, Sponsor, any Intermediate Entity or Guarantor to be in breach of any Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(d) With respect to the Purchased Assets that were originated by Seller or any Affiliate of Seller, Seller has conducted the customer identification and customer due diligence required in connection with the origination of each Purchased Asset for purposes of complying with all Anti-Money Laundering Laws, and will maintain sufficient information to identify each such customer for purposes of such Anti-Money Laundering Laws.

Section 8.17 Compliance with Sanctions. The proceeds of any Transaction hereunder will not, directly or indirectly, be used to lend, contribute, or otherwise be made available; (i) to fund any activities or business of or with a Sanctioned Target, or (ii) be used in any manner that would be prohibited by Sanctions or would otherwise cause Buyer to be in breach of any Sanctions. Seller, Sponsor, each Intermediate Entity or Guarantor shall notify the Buyer in writing not more than three (3) Business Days after becoming aware of any breach of Section 7.20 or this Section 8.17.

Section 8.18 Additional Sellers. Subject to the terms and conditions of this Agreement and the other Repurchase Documents, including the separateness provisions set forth in Article 9, Pledgor may from time to time form additional Subsidiaries in order to become additional Sellers hereunder and, in each case, the initial Seller hereunder shall, within ten (10) days after such formation, (a) notify Buyer of such formation, (b) cause Pledgor to pledge in favor of Buyer all of the Equity Interests held by Pledgor in each such Subsidiary and take all such further action as Buyer shall deem reasonably necessary or advisable (including the execution of financing statements and any additional security agreements or amendments thereto) in order to effect and perfect such pledge, (c) cause such Subsidiary of Pledgor to deliver to Buyer a properly completed and duly executed Additional Seller Joinder Agreement, (d) deliver fully-executed joinder agreements relating to such additional Seller's joinder to the Custodial Agreement, the Servicing Agreement, the Fee Letter and the Controlled Account Agreement, and cause the additional Seller to execute and deliver a new Power of Attorney to Buyer, (e) provide updated copies to Buyer of each of the legal opinions delivered to Buyer on the Closing Date, and (f) deliver to Buyer copies of all lien searches and authorizing documentation required by Buyer, including secretary's certificates and resolutions, together with a new Compliance Certificate reflecting and confirming the addition of such Subsidiary as an additional Seller hereunder. Thereafter, upon the subsequent delivery of written notice from Buyer to the initial Seller that the related proposed additional Seller has satisfied all of Buyer's "Know Your Customer", Anti-Corruption Laws, Sanctions and Anti-Money Laundering Laws diligence, the proposed additional Seller shall be a Seller hereunder.

Section 8.19 Beneficial Ownership. To the extent that Seller is a "legal entity customer" under the Beneficial Ownership Regulation, Seller shall promptly give notice to Buyer of any change in the information provided in any Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein and shall promptly deliver an updated Beneficial Ownership Certification to Buyer.

## ARTICLE 9 SINGLE-PURPOSE ENTITY

Section 9.01 Covenants Applicable to Seller. Seller shall (a) own no assets, and shall not engage in any business, other than (i) the assets and transactions specifically contemplated by this Agreement and any other Repurchase Document and (ii) any assets that are either (Y) intended to be sold to Buyer pursuant to a Transaction hereunder but not actually sold to Buyer hereunder, or (Z) actually sold to Buyer pursuant to a Transaction hereunder but subsequently repurchased by Seller from Buyer in accordance with this Agreement so long as, in either such case, Seller fully divests itself from the related asset within ten (10) Business Days from, as appropriate, either the date that Buyer notifies Seller that the related proposed transaction was not approved by Buyer or the related asset was repurchased by Seller in accordance with this Agreement; (b) not incur any Indebtedness or other obligation, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (I) with respect to the Purchased Asset Documents and the Retained Interests, (II) commitments to make loans which may become Eligible Assets, (III) unsecured trade payables not to exceed $250,000 incurred in the ordinary course of business, and (IV) as otherwise permitted under this Agreement; (c) not make any loans or advances to any Affiliate or any other Person and shall not acquire obligations or securities of its Affiliates, in each case other than in connection with the origination or acquisition of Assets for purchase or intended for purchase under the Repurchase Documents; (d) pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) only from its own assets; (e) comply with the provisions of its Governing Documents; (f) do all things necessary to observe organizational formalities and to preserve its existence, and shall not amend, modify, waive provisions of or otherwise change its Governing Documents with respect to the matters set forth in this Article 9;

(g) maintain all of its books, records and bank accounts separate from those of any other Person;

(h) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other Person and not have its assets listed on any financial statement of any other Person; provided, however, that Seller's assets may be included in a consolidated financial statement of its Affiliate provided that (I) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of Seller from such Affiliate and to indicate that Seller's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person and (II) such assets shall also be listed on Seller's own separate balance sheet; (i) file its own tax returns separate from those of any other Person, except to the extent that Seller is treated as a "disregarded entity" for tax purposes or is otherwise not required to file tax returns under Requirements of Law; (j) be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, and shall not identify itself or any of its Affiliates as a division of the other; (k) maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, provided that the foregoing shall not require any holder of direct or indirect Equity Interests in Seller to make any additional capital contributions to Seller; (l) to the fullest extent permitted by law, not engage in or suffer any Change of Control, dissolution, winding up, liquidation, consolidation or merger in whole or in part or convey or transfer all or substantially all of its properties and assets to any Person (except as contemplated herein), nor shall Seller adopt, file, or effect a Division; (m) not commingle its funds or other assets with those of any Affiliate or any other Person; (n) maintain its properties, assets and accounts separate from those of any Affiliate or any other Person; (o) not guarantee any obligation of any Person, including any Affiliate, become obligated for the debts of any other Person, or hold out its credit or assets as being available pay the obligations of any other Person; (p) not, without the prior unanimous written consent of all of its Independent Directors or Independent Managers, take any Insolvency Action; (q) (I) have at all times at least one (1) Independent Director or Independent Manager whose vote is required to take any Insolvency Action, and (II) provide Buyer with up-to-date contact information for each such Independent Director or Independent Manager and a copy of the agreement pursuant to which such Independent Director or Independent Manager consents to and serves as an "Independent Director" or "Independent Manager" for Seller; (r) have Governing Documents that provide that for so long as any Repurchase Obligations remain outstanding, (I) the Independent Manager or Independent Director may be removed only for Cause, (II) that Buyer be given at least five (5) Business Days prior notice of the removal and/or replacement of any Independent Director or Independent Manager, together with the name and contact information of the replacement Independent Director or Independent Manager and evidence of the replacement's satisfaction of the definition of Independent Director or Independent Manager, (III) that, to the fullest extent permitted by law, and notwithstanding any duty otherwise existing at law or in equity, any Independent Director or Independent Manager shall consider only the interests of Seller, including its respective creditors, in acting or otherwise voting on the Insolvency Action, and (IV) that, except for duties to Seller as set forth in the immediately preceding clause and subject to applicable law (including duties to the holders of the Equity Interests in Seller or Seller's respective creditors solely to the extent of their respective economic interests in Seller, but excluding (A) all other interests of the holders of the Equity Interests in Seller, (B) the interests of other Affiliates of Seller, and (C) the interests of any group of Affiliates of which Seller is a part), the Independent Directors or Independent Managers shall not have any fiduciary duties to the holders of the Equity Interests in Seller, any officer or any other Person bound by the Governing Documents; provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing; (s) except for capital contributions or capital distributions permitted under the terms and conditions of its Governing Documents and properly reflected on the books and records of Seller, not enter into any transaction with an Affiliate of Seller except on commercially reasonable terms similar to those available to unaffiliated parties in an arm's-length transaction;(t) maintain a sufficient number of employees in light of contemplated business operations and pay the salaries of its own employees, if any, only from its own funds; (u) use separate stationary, invoices and checks bearing its own name; (v) allocate fairly and reasonably any overhead expenses that are shared with an Affiliate, including for shared office space and for services performed by an employee of an Affiliate; (w) not pledge its assets to secure the obligations of any other Person; and (x) not form, acquire or hold any Subsidiary or own any Equity Interest in any other entity. Seller has complied with the covenants set forth in this Section 9.01 since the date of its formation.

Section 9.02 Covenants Applicable to Pledgor. Pledgor shall, and Seller shall ensure that Pledgor shall, (a) own no assets other than its Equity Interest in Seller, and shall not engage in any business other than acting as a member of Seller and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing; (b) not incur any Indebtedness or other obligation, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), except as otherwise expressly permitted under this Agreement; (c) not make any loans or advances to any Affiliate or any other Person and shall not acquire obligations or securities of its Affiliates, other than with respect to its Equity Interest in Seller; (d) pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) only from its own assets; (e) comply with the provisions of its Governing Documents; (f) do all things necessary to observe organizational formalities and to preserve its existence, and shall not amend, modify, waive provisions of or otherwise change its Governing Documents with respect to the matters set forth in this Article 9; (g) maintain all of its books, records and bank accounts separate from those of any other Person; (h) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other Person and not have its assets listed on any financial statement of any other Person; provided, however, that the Pledgor's assets may be included in a consolidated financial statement of its

Affiliate provided that (I) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of Pledgor from such Affiliate and to indicate that Pledgor's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person and (II) such assets shall also be listed on the Pledgor's own separate balance sheet; (i) file its own tax returns separate from those of any other Person, except to the extent that Pledgor is treated as a "disregarded entity" for tax purposes or is otherwise not required to file tax returns under Requirements of Law; (j) be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, and shall not identify itself or any of its Affiliates as a division of the other; (k) maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and shall remain Solvent, provided that the foregoing shall not require any holder of direct or indirect Equity Interests in Pledgor to make any additional capital contributions to Pledgor; (l) to the fullest extent permitted by law, not engage in or suffer any Change of Control, dissolution, winding up, liquidation, consolidation, division or merger in whole or in part or convey or transfer all or substantially all of its properties and assets to any Person (except as contemplated herein), nor shall Pledgor adopt, file or effect a Division; (m) not commingle its funds or other assets with those of any Affiliate or any other Person; (n) maintain its properties, assets and accounts separate from those of any Affiliate or any other Person; (o) except as contemplated by the Pledge Agreement with respect to Seller, not guarantee any obligation of any Person, including any Affiliate, become obligated for the debts of any other Person, or hold out its credit or assets as being available to pay the obligations of any other Person; (p) not, without the prior unanimous written consent of all of its Independent Directors, take any Insolvency Action; (q) (I) have at all times at least one Independent Director or Independent Manager whose vote is required to take any Insolvency Action and (II) provide Buyer with up-to-date contact information for each such Independent Director or Independent Manager and a copy of the agreement pursuant to which such Independent Director or Independent Manager consents to and serves as an "Independent Director" or "Independent Manager" for Pledgor; (r) have Governing Documents that provide (I) that the Independent Manager or Independent Director may be removed only for Cause; (II) Buyer be given at least five (5) Business Days prior notice of the removal and/or replacement of any Independent Director or Independent Manager, together with the name and contact information of the replacement Independent Director or Independent Manager and evidence of the replacement's satisfaction of the definition of Independent Director or Independent Manager and (III) that, to the fullest extent permitted by law, and notwithstanding any duty otherwise existing at law or in equity, any Independent Director or Independent Manager shall consider only the interests of Pledgor, including its respective creditors, in acting or otherwise voting on the Insolvency Action, and (IV) that, except for duties to Pledgor as set forth in the immediately preceding clause and subject to applicable law (including duties to the holders of the Equity Interests in Pledgor or Pledgor's respective creditors solely to the extent of their respective economic interests in Pledgor, but excluding (A) all other interests of the holders of the Equity Interests in Pledgor, (B) the interests of other Affiliates of Pledgor, and (C) the interests of any group of Affiliates of which Pledgor is a part), the Independent Directors or Independent Managers shall not have any fiduciary duties to the holders of the Equity Interests in Pledgor, any officer or any other Person bound by the Governing Documents; provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing; (s) except for capital contributions or capital distributions permitted under the terms and conditions of its Governing Documents and properly reflected on the books and records of Pledgor, not enter into any transaction with an Affiliate of the Pledgor except on commercially reasonable terms similar to those available to unaffiliated parties in an arm's-length transaction; (t) maintain a sufficient number of employees in light of contemplated business operations and pay the salaries of its own employees, if any, only from its own funds; (u) use separate stationary, invoices and checks bearing its own name; (v) allocate fairly and reasonably any overhead for shared office space and for services performed by an employee of an Affiliate; (w) except as contemplated by the

Pledge Agreement with respect to Seller, not pledge its assets to secure the obligations of any other Person; and (x) not form, acquire or hold any Subsidiary or own any Equity Interest in any other entity, except for its Equity Interest in Seller. Pledgor has complied with the covenants set forth in this Section 9.02 since the date of its formation.

Section 9.03 Additional Covenants Applicable to Seller and Pledgor. Seller and Pledgor shall, and Seller shall ensure that Pledgor shall: (i) be a Delaware limited liability company, (ii) have at least one Independent Director or Independent Manager serving as manager of such company, (iii) not take any Insolvency Action and shall not cause or permit the members or managers of such entity to take any Insolvency Action, either with respect to itself or, if the company is a Pledgor, with respect to Seller, in each case unless all of its Independent Director(s) or Independent Manager(s) then serving as managers of the company shall have consented in writing to such action (directly or indirectly), and (iv) have either (A) a member which owns no economic interest in the company, has signed the company's limited liability company agreement and has no obligation to make capital contributions to the company, or (B) one natural person or one entity that is not a member of the company, that has signed its limited liability company agreement and that, under the terms of such limited liability company agreement becomes a member of the company immediately prior to the resignation or dissolution of the last remaining member of the company.

## ARTICLE 10

## EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default. Each of the following events shall be an "Event of Default":

(a) Seller fails to make a payment of (i) Margin Deficit subject to a Margin Call or Repurchase Price (other than Price Differential) when due, whether by acceleration or otherwise (including, if applicable, any Future Funding Amounts related to a Future Funding Transaction), (ii) Price Differential; provided, however, no more than two (2) times during any twelve (12) month period, Seller may cure such failure within one (1) Business Day of such failure if the funds were available in the Waterfall Account when due and such failure arose solely by reason of an error or omission of an administrative or operational nature, or (iii) any fee or other amount when due, in each case under the Repurchase Documents;

(b) Seller fails to observe or perform in any material respect any other Repurchase Obligation of Seller under the Repurchase Documents or Purchased Asset Documents to which Seller is a party, and (except in the case of a failure to perform or observe the Repurchase Obligations of Seller under Section 8.04 and 18.07(a)) such failure continues unremedied for five (5) Business Days after the earlier of receipt of notice thereof from Buyer or the discovery of such failure by Seller; provided, however, in the case of any such failure to observe or perform (other than with respect to the obligations set forth in Sections 8.04, 8.07, 18.07(a) or the first sentence of Section 8.02) that is susceptible to cure but cannot be cured within such five (5) Business Day period through the exercise of reasonable diligence, if Seller commences such cure within the initial five (5) Business Day period and diligently prosecutes same to completion, such five (5) Business Day period shall be extended for such additional period of time as may be reasonably necessary to cure same, but in no event shall such extended period exceed an additional fifteen (15) days;

(c) any Representation Breach (other than a Representation Breach arising out of the representations and warranties set forth in Schedule 1) exists and continues unremedied for five (5) Business Days after the earlier of receipt of notice thereof from Buyer or the discovery of such failure by Seller; provided, however, in the case of any such failure which is susceptible to cure but cannot be cured within such five (5) Business Day period through the exercise of reasonable diligence, if Seller commences such cure within the initial five (5) Business Day period and diligently prosecutes same to completion, such period shall be extended for such additional period of time as may be reasonably necessary to cure same, but in no event shall such extended period exceed an additional five (5) Business Days;

(d) Seller, Pledgor, Sponsor or Guarantor defaults beyond any applicable grace period in paying any amount or performing any obligation which permits the acceleration of any Indebtedness, Guarantee Obligation or Contractual Obligation with an outstanding amount of at least $250,000 with respect to Seller or Pledgor, or the Materiality Threshold with respect to Guarantor or Sponsor;

(e) Seller, Pledgor, Sponsor, Guarantor or any direct or indirect Subsidiary of Sponsor defaults beyond any applicable grace period in paying any amount or performing any obligation due to Buyer or any Affiliate of Buyer under any other financing, hedging, security or other agreement (other than under this Agreement) between Seller, Pledgor, Sponsor, Guarantor or any direct or indirect Subsidiary of Sponsor and Buyer or any Affiliate of Buyer, including, without limitation, Guarantor's obligations under the Guarantee Agreement;

(f) an Insolvency Event occurs with respect to Seller, Pledgor, Guarantor or

Sponsor;

(g) a Change of Control occurs;

(h) a final judgment or judgments for the payment of money in excess of

$250,000 with respect to Seller or Pledgor, or the Materiality Threshold with respect to Guarantor or Sponsor in the aggregate is entered against Seller, Pledgor, Guarantor or Sponsor by one or more Governmental Authorities and the same is not satisfied, discharged (or provision has not been made for such discharge) or bonded, or a stay of execution thereof has not been procured, within thirty (30) days from the date of entry thereof;

(i) a Governmental Authority takes any action to (i) condemn, seize or appropriate, or assume custody or control of, all or any substantial part of the property of Seller,(ii) displace the management of Seller or curtail its authority in the conduct of the business of Seller or (iii) terminate the activities of Seller as contemplated by the Repurchase Documents, and in each case such action is not discontinued or stayed within thirty (30) days;

(j) Seller, Pledgor, Guarantor or Sponsor admits that it is not Solvent or is not able or not willing to perform any of its Repurchase Obligations, Contractual Obligations, Guarantee Obligations, Capital Lease Obligations or Off-Balance Sheet Obligations;

(k) any provision of the Repurchase Documents, any right or remedy of Buyer or obligation, covenant, agreement or duty of Seller thereunder, or any Lien, security interest or control granted under or in connection with the Repurchase Documents, Pledged Collateral or Purchased Assets terminates, is declared null and void, ceases to be valid and effective, ceases to be the legal, valid, binding and enforceable obligation of Seller or any other Person, or the validity, effectiveness, binding nature or enforceability thereof is contested, challenged, denied or repudiated by Seller or any Affiliate thereof, in each case directly, indirectly, in whole or in part, except that, solely with respect to the Purchased Assets, Seller shall have a period of three (3) Business Days from the date of each such violation to either repurchase the related Purchased Asset from Buyer pursuant to Section 3.04 or cure the related breach, as such cure is determined by Buyer;

(l) Buyer ceases for any reason to have a valid and perfected first priority security interest in any Purchased Asset or any Pledged Collateral, except that Seller or Pledgor, as appropriate, shall have a period of three (3) Business Days from the date of each such violation to cure the related breach, as such cure is determined by Buyer (which may be satisfied by repurchase of the related Purchased Asset, if applicable, within such time period);

(m) Seller, Pledgor or Guarantor is required to register as an "investment company" (as defined in the Investment Company Act) or the arrangements contemplated by the Repurchase Documents shall require registration of Seller, Pledgor or Guarantor as an "investment company";

(n) Seller, Pledgor, Sponsor or Guarantor engages in any conduct or action where Buyer's prior consent is required by any Repurchase Document and Seller, Pledgor, Sponsor or Guarantor fails to obtain such consent;

(o) Seller, Servicer, any Underlying Obligor or any other Person fails to deposit to the Waterfall Account all Income and other amounts as required by Section 5.01 and other provisions of this Agreement when due, or the occurrence of a Servicer Event of Default; provided that no Event of Default shall occur under this clause (o) if such failure or Servicer Event of Default is cured within (x) in the case of any failure to deposit amounts in accordance with Section 5.01, one (1) Business Day after the earlier of receipt of notice thereof from Buyer or the discovery of such failure by Seller, and (y) in the case of any other Servicer Event of Default, thirty (30) days after the earlier of receipt of notice thereof from Buyer or the discovery of such failure by Seller;

(p) Guarantor's audited annual financial statements or the notes thereto or other opinions or conclusions stated therein are qualified or limited by reference to the status of Guarantor as a "going concern" or a reference of similar import, other than a qualification or limitation expressly related to Buyer's rights in the Purchased Assets;

(q) any termination event, default or event of default (however defined) shall have occurred with respect to Seller under any Interest Rate Protection Agreement and either (i) same is not cured or (ii) a replacement Interest Rate Protection Agreement acceptable to Buyer in its sole discretion has not been entered into and assigned to Buyer, in each case on or before the date that is three (3) Business Days after the occurrence of any such event; or Guarantor breaches any of the obligations, covenants, terms or conditions set forth in the Guarantee Agreement;

(r) any Material Modification is made to any Purchased Asset or any Purchased Asset Document without the prior written consent of Buyer; provided that Seller shall have one opportunity to cure a breach of this clause (r) by repurchasing the related Purchased Asset for the full Repurchase Price therefor pursuant to Section 3.04 within ten (10) Business Days of the date of the related Material Modification; and

(s) Seller adopts, files, or effects a Division.

Section 10.02 Remedies of Buyer as Owner of the Purchased Assets. If an Event of Default exists, at the option of Buyer, exercised by notice to Seller (which option shall be deemed to be exercised, even if no notice is given, automatically and immediately upon the occurrence of an Event of Default under Section 10.01(f)), the Repurchase Date for all Purchased Assets shall be deemed automatically and immediately to occur (the date on which such option is exercised or deemed to be exercised, the "Accelerated Repurchase Date"). If Buyer exercises or is deemed to have exercised the foregoing option:

(a) All Repurchase Obligations shall become immediately due and payable on and as of the Accelerated Repurchase Date and Buyer may, upon the delivery of notice thereof to Seller, terminate this Agreement, except provisions of this Agreement which by their terms survive any such termination of the Agreement or the transactions contemplated hereby.

(b) All Income in the Waterfall Account and the Servicer Account related to each Purchased Asset other than any Purchased Asset specific escrow accounts, together with all Income paid after the Accelerated Repurchase Date, shall be retained by Buyer and applied in accordance with Article 5.

(c) Buyer may complete any assignments, allonges, endorsements, powers or other documents or instruments executed in blank and otherwise obtain physical possession of all Purchased Asset Documents and all other instruments, certificates and documents then held by or on behalf of Custodian under the Custodial Agreement. Buyer may obtain physical possession of all Servicing Files, Servicing Agreements and other files and records of Seller or any Servicer. Seller shall deliver to Buyer such assignments and other documents with respect thereto as Buyer shall request.

(d) Buyer may immediately, at any time, and from time to time, exercise either of the following remedies with respect to any or all of the Purchased Assets: (i) sell such Purchased Assets on a servicing-released basis and/or without providing any representations and warranties on an "as-is where is" basis, in a recognized market and by means of a public or private sale at such price or prices as Buyer accepts, and apply the net proceeds thereof in accordance with Article 5, or (ii) retain such Purchased Assets and give Seller credit against the Repurchase Price for such Purchased Assets (or if the amount of such credit exceeds the Repurchase Price for such Purchased Assets, to credit against Repurchase Obligations due and any other amounts (without duplication) then owing to Buyer by any other Person pursuant to any Repurchase Document, in such order and in such amounts as determined by Buyer), in an amount equal to the Market Value (determined without giving effect to the second proviso in the definition of "Market Value" hereunder with regard to determining Market Value to be zero) of such Purchased Assets on the date of the related Event of Default. Until such time as Buyer exercises either such remedy with respect to a Purchased Asset, Buyer may hold such Purchased Asset for its own account and retain all Income with respect thereto.

(e) The Parties agree that the Purchased Assets are of such a nature that they may decline rapidly in value, and may not have a ready or liquid market. Accordingly, Buyer shall not be required to sell more than one Purchased Asset on a particular Business Day, to the same purchaser or in the same manner. Buyer may determine whether, when and in what manner a Purchased Asset shall be sold, it being agreed that both a good faith public and a good faith private sale shall be deemed to be commercially reasonable. Buyer shall not be required to give notice to Seller or any other Person prior to exercising any remedy in respect of an Event of Default. If no prior notice is given, Buyer shall give notice to Seller of the remedies exercised by Buyer promptly thereafter.

(f) Seller shall be liable to Buyer for (i) any amount by which the Repurchase Obligations due to Buyer exceed the aggregate of the net proceeds and credits referred to in the preceding clause (d), (ii) the amount of all actual out-of-pocket expenses, including reasonable legal fees and expenses, actually incurred by Buyer in connection with or as a consequence of an Event of Default, (iii) any costs and losses payable under Section 12.03, and (iv) any other actual loss, damage, cost or expense resulting from the occurrence of an Event of Default.

(g) Buyer shall be entitled to an injunction, an order of specific performance or other equitable relief to compel Seller to fulfill any of its obligations as set forth in the Repurchase Documents, including this Article 10, if Seller fails or refuses to perform its obligations as set forth herein or therein.

(h) Seller hereby appoints Buyer as attorney-in-fact of Seller for purposes of carrying out the Repurchase Documents, including executing, endorsing and recording any instruments or documents and taking any other actions that Buyer deems necessary or advisable to accomplish such purposes, which appointment is coupled with an interest and is irrevocable.

(i) Buyer may, without prior notice to Seller, exercise any or all of its set-off rights including those set forth in Section 18.16 and pursuant to any other Repurchase Document.

This Section 10.02(i) shall be without prejudice and in addition to any right of set-off, combination of accounts, Lien or other rights to which Buyer is at any time otherwise entitled.

(j) All rights and remedies of Buyer under the Repurchase Documents, including those set forth in Section 18.16, are cumulative and not exclusive of any other rights or remedies that Buyer may have and may be exercised at any time when an Event of Default exists. Such rights and remedies may be enforced without prior judicial process or hearing. Seller agrees that nonjudicial remedies are consistent with the usages of the trade, are responsive to commercial necessity and are the result of a bargain at arm's-length. Seller hereby expressly waives any defenses Seller might have to require Buyer to enforce its rights by judicial process or otherwise arising from the use of nonjudicial process, disposition of any or all of the Purchased Assets, or any other election of remedies.

## ARTICLE 11

## SECURITY INTEREST

Section 11.01 Grant. Buyer and Seller intend that the Transactions be sales to

Buyer of the Purchased Assets and not loans from Buyer to Seller secured by the Purchased Assets. However, to preserve and protect Buyer's rights with respect to the Purchased Assets and under the Repurchase Documents if any Governmental Authority recharacterizes any Transaction with respect to a Purchased Asset as other than a sale, and as security for Seller's performance of the Repurchase Obligations, Seller hereby grants to Buyer a present Lien on and security interest in all of the right, title and interest of Seller in, to and under (i) the Purchased Assets (which for this purpose shall be deemed to include the items described in clause (B) of the proviso in the definition thereof), and (ii) each Interest Rate Protection Agreement with each Hedge Counterparty relating to each Purchased Asset, and the transfer of the Purchased Assets to Buyer shall be deemed to constitute and confirm such grant, to secure the payment and performance of the Repurchase Obligations (including the obligation of Seller to pay the Repurchase Price, or if the related Transaction is recharacterized as a loan, to repay such loan for the Repurchase Price).

Section 11.02 Effect of Grant. If any circumstance described in Section 11.01 occurs, (a) this Agreement shall also be deemed to be a security agreement as defined in the UCC, (b) Buyer shall have all of the rights and remedies provided to a secured party by Requirements of Law (including the rights and remedies of a secured party under the UCC and the right to set off any mutual debt and claim) and under any other agreement between Buyer and Seller or between any Affiliated Hedge Counterparty and Seller, (c) without limiting the generality of the foregoing, Buyer shall be entitled to set off the proceeds of the liquidation of the Purchased Assets against all of the Repurchase Obligations, without prejudice to Buyer's right to recover any deficiency, (d) the possession by Buyer or any of its agents, including Custodian, of the Purchased Asset Documents, the Purchased Assets and such other items of property as constitute instruments, money, negotiable documents, securities or chattel paper shall be deemed to be possession by the secured party for purposes of perfecting such security interest under the UCC and Requirements of Law, and (e) notifications to Persons (other than Buyer) holding such property, and acknowledgments, receipts or confirmations from Persons (other than Buyer) holding such property, shall be deemed notifications to, or acknowledgments, receipts or confirmations from, securities intermediaries, bailees or agents (as applicable) of the secured party for the purpose of perfecting such security interest under the UCC and Requirements of Law. The security interest of Buyer granted herein shall be, and Seller hereby represents and warrants to Buyer and to all other Affiliated Hedge Counterparties that it is, a first priority perfected security interest. For the avoidance of doubt, (i) each Purchased Asset and each Interest Rate Protection Agreement relating to a Purchased Asset secures the Repurchase Obligations of Seller with respect to all other Transactions and all other Purchased Assets, including any Purchased Assets that are junior in priority to the Purchased Asset in question, and (ii) if an Event of Default exists, no Purchased Asset or Interest Rate Protection Agreement relating to a Purchased Asset will be released from Buyer's Lien or transferred to Seller until the Repurchase Obligations are indefeasibly paid in full. Notwithstanding the foregoing, the Repurchase Obligations shall be full recourse to Seller.

Section 11.03 Seller to Remain Liable. Buyer and Seller agree that the grant of a security interest under this Article 11 shall not constitute or result in the creation or assumption by Buyer of any Retained Interest or other obligation of Seller or any other Person in connection with any Purchased Asset, or any Interest Rate Protection Agreement whether or not Buyer exercises any right with respect thereto. Seller shall remain liable under the Purchased Assets, each Interest Rate Protection Agreement and the Purchased Asset Documents to perform all of Seller's duties and obligations thereunder to the same extent as if the Repurchase Documents had not been executed.

Section 11.04 Waiver of Certain Laws. Seller agrees, to the extent permitted by Requirements of Law, that neither it nor anyone claiming through or under it will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption law now or hereafter in force in any locality where any Purchased Assets may be situated in order to prevent, hinder or delay the enforcement or foreclosure of this Agreement, or the absolute sale of any of the Purchased Assets or Interest Rate Protection Agreement relating to a Purchased Asset or any part thereof, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereof, and Seller, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may be lawful so to do, the benefit of all such laws and any and all right to have any of the properties or assets constituting the Purchased Assets or Interest Rate Protection Agreement relating to a Purchased Asset marshaled upon any such sale, and agrees that Buyer or any court having jurisdiction to foreclose the security interests granted in this Agreement may sell the Purchased Assets and each Interest Rate Protection Agreement relating to a Purchased Asset as an entirety or in such parcels as Buyer or such court may determine.

## ARTICLE 12

## INCREASED COSTS; CAPITAL ADEQUACY

Section 12.01 Benchmark Replacement; Market Disruption.

(a) Benchmark Replacement for LIBOR Based Transactions. Notwithstanding anything to the contrary herein or in any other Repurchase Document, ~~if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related~~

~~Benchmark Replacement~~with respect to any LIBOR Based Transaction, if the USD LIBOR Transition Date ~~have~~has occurred prior to the LIBOR Reference Time in respect of any ~~determination of the Benchmark on any date, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Repurchase Document in respect of such determination on such date and all determinations on all subsequent dates. If the Benchmark Replacement is determined in connection with a Benchmark Transition Event, such Benchmark Replacement will become effective as of the Reference Time on the applicable Benchmark Replacement Date~~setting of USD LIBOR for any Pricing Period of such LIBOR Based Transaction, then such LIBOR Based Transaction shall be permanently converted to being a SOFR Based Transaction as of the first day of such Pricing Period (such conversion, a "Rate Conversion") without any amendment to, or further action or consent of any other party to, this Agreement or any other Repurchase Document~~. If the Benchmark Replacement is determined in connection with an Early Opt-in Election, such Benchmark Replacement will become effective at 5:00 p.m.~~ (such date on which the ~~fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to Seller~~LIBOR Based Transactions are converted to SOFR Based Transactions, the "Rate Conversion Effective Date"); provided, that except as otherwise expressly specified in any Confirmation (or amended and restated Confirmation) entered into by Buyer and Seller following the Third Amendment Effective Date, from and after the Rate Conversion Effective Date, the Pricing Margin (as in effect immediately prior to the effectiveness of such Rate Conversion) for each such converted Transaction shall be increased by an amount equal to the SOFR Adjustment without any amendment to ~~this Agreement or any other Repurchase Document~~, or further action or consent of ~~Seller or~~ any other party to, this Agreement or any other Repurchase Document.

(b) Benchmark Replacement for SOFR Based Transactions. Notwithstanding anything to the contrary herein or in any other Repurchase Document, with respect to any SOFR Based Transaction, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable), then the Benchmark Replacement will replace the then-current Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, applicable) with respect to each affected SOFR Based Transaction for all purposes hereunder or under any Repurchase Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Repurchase Document.

(c) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement or any Rate Conversion, Buyer will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Repurchase Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of Seller or any other party to this Agreement or any other Repurchase Document.

(~~c~~d) Notices; Standards for Decisions and Determinations. Buyer will promptly notify Seller of (i) the implementation of any ~~occurrence of a~~ Benchmark ~~Transition Event or an~~ ~~Early Opt-in Election~~Replacement or Rate Conversion, as applicable, and ~~its related Benchmark Replacement Date,~~ (ii) the ~~implementation of any Benchmark Replacement, (iii) the~~ effectiveness of any Benchmark Replacement Conforming Changes~~ and (iv) the removal or reinstatement of any tenor of Term SOFR pursuant to clause (d) below~~. Any determination, decision or election that may be made by Buyer pursuant to this Section 12.01, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from Seller or any other party to this Agreement or any other Repurchase Document. Any notice of Rate Conversion delivered by Buyer as described in the preceding clause (~~d~~i) shall specify the Applicable SOFR designated by Buyer with respect to each such converted Transaction, which designation shall be conclusive and binding on Seller for all purposes of this Agreement.

(e) Market Disruption. Notwithstanding the foregoing, if prior to any Pricing Period, Buyer determines that, by reason of circumstances affecting the relevant market (other than a Benchmark Transition Event ~~or an Early Opt-in Election~~), adequate and reasonable means do not exist for ascertaining ~~the then-~~any applicable current Benchmark for such Pricing Period, Buyer shall give prompt notice thereof to Seller, whereupon the ~~Benchmark portion of the~~ Pricing Rate for such Pricing Period with respect to each Transaction based on such Benchmark, and for all subsequent Pricing Periods for Transactions based on such Benchmark until such notice has been withdrawn by Buyer, shall be the ~~Benchmark Replacement determined~~sum of (i) an alternate benchmark rate that has been selected by Buyer~~ pursuant to clause~~, (~~3~~ii) ~~of the definition of “Benchmark Replacement”. For the avoidance of doubt, nothing contained in this Section 12.01 shall be construed to eliminate, replace or otherwise affect the Pricing Margin portion of the Pricing Rate calculation, which Pricing Margin shall continue to apply and be calculated as part of the Pricing Rate regardless of the applicable Benchmark.~~

~~(e) London Interbank Offered Rate Benchmark Transition Event. On March 5, 2021, the ICE Benchmark Administration (the “IBA”), the administrator of the London interbank offered rate, and the Financial Conduct Authority (the “FCA”), the regulatory supervisor of the IBA, announced in public statements (the “Announcements”) that the final publication or representativeness date for (i) 1-week and 2-month London interbank offered rate tenor settings will be December 31, 2021 and (ii) overnight, 1-month, 3-month, 6-month and 12-month London interbank offered rate tenor settings will be June 30, 2023. No successor administrator for the IBA was identified in such Announcements. The parties hereto agree and acknowledge that the Announcements resulted in the occurrence of a Benchmark Transition Event with respect to the London interbank offered rate pursuant to the terms of this Agreement and that any obligation of Buyer to notify Seller of such Benchmark Transition Event pursuant to clause (c) of this Section 12.01 shall be deemed satisfied~~the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by Buyer and (iii) the applicable Pricing Margin.

In exercising its rights and remedies under this Section 12.01, Buyer shall treat Seller in a manner that is substantially similar to the manner it treats other similarly situated sellers in facilities with substantially similar assets~~.~~.

Section 12.02 Illegality. If the adoption of or any change in any Requirements of Law or in the interpretation or application thereof after the date hereof shall make it unlawful for Buyer to effect or continue Transactions as contemplated by the Repurchase Documents, (a) any commitment of Buyer hereunder to enter into new Transactions shall be terminated and the Facility Termination Date shall be deemed to have occurred, (b) if required by such adoption or change, the Pricing Rate shall be the ~~Benchmark Replacement determined~~sum of (i) an alternate benchmark rate that has been selected by Buyer ~~pursuant to clause~~, (~~3~~ii) ~~of~~ the ~~definition of "Benchmark Replacement"~~spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by Buyer and (iii) the applicable Pricing Margin, and (c) if required by such adoption or change, the Facility Termination Date shall be deemed to have occurred. In exercising its rights and remedies under this Section 12.02, Buyer shall treat Seller in a manner that is substantially similar to the manner it treats other similarly situated sellers in facilities with substantially similar assets.

Section 12.03 Breakfunding. In the event of (a) the failure by Seller to terminate any Transaction after Seller has given a notice of termination pursuant to Section 3.04, (b) any payment to Buyer on account of the outstanding Repurchase Price, including a payment made pursuant to Section 3.04 but excluding a payment made pursuant to Section 5.02, on any day other than a Remittance Date (based on the assumption that Buyer funded its commitment with respect to the Transaction in the London Interbank Eurodollar market and using any reasonable attribution or averaging methods that Buyer deems appropriate and practical), (c) any failure by Seller to sell Eligible Assets to Buyer after Seller has notified Buyer of a proposed Transaction and Buyer has agreed to purchase such Eligible Assets in accordance with this Agreement, or (d) any redetermination of the Pricing Rate based on a Benchmark Replacement or Rate Conversion for any reason on a day that is not the last day of the then-current Pricing Period, Seller shall compensate Buyer for the cost and expense attributable to such event. A certificate of Buyer setting forth any amount or amounts that Buyer is entitled to receive pursuant to this Section 12.03 shall be delivered to Seller and shall be conclusive to the extent calculated in good faith and absent manifest error. Seller shall pay Buyer the amount shown as due on any such certificate within ten (10) days after receipt thereof.

Section 12.04 Increased Costs. If the adoption of, or any change in, any Requirements of Law or in the interpretation or application thereof by any Governmental Authority, or compliance by Buyer with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority having jurisdiction over Buyer made after the date of this Agreement, shall: (a) subject Buyer to any Taxes (other than (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of "Excluded Taxes" or (iii) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, (b) impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of Buyer, or (c) impose on Buyer (other than Taxes) any other condition; and the result of any of the preceding clauses (a), (b) and (c) is to increase the cost to Buyer, by an amount that Buyer deems to be material, of entering into, continuing or maintaining Transactions, or to reduce any amount receivable under the Repurchase Documents in respect thereof, then, in any such case, upon not less than thirty (30) days' prior written notice to Seller, Seller shall pay to Buyer such additional amount or amounts as reasonably necessary to fully compensate Buyer for such increased cost or reduced amount receivable. In determining any additional amounts due under this Section 12.04, Buyer shall treat Seller in a manner that is substantially similar to the manner it treats other similarly situated sellers in facilities with substantially similar assets.

Section 12.05 Capital Adequacy. If Buyer determines that any change in any Requirements of Law or internal policy regarding capital requirements has or would have the effect of reducing the rate of return on Buyer's capital as a consequence of this Agreement or its obligations under the Transactions hereunder to a level below that which Buyer could have achieved but for such change in any Requirements of Law or internal policy (taking into consideration Buyer's policies with respect to capital adequacy), then from time to time Seller will promptly upon demand pay to Buyer such additional amount or amounts as will compensate Buyer for any such reduction suffered. In determining any additional amounts due under this Section 12.05, Buyer shall treat Seller in a manner that is substantially similar to the manner it treats other similarly situated sellers in facilities with substantially similar assets.

Section 12.06 Taxes.

(a) Any and all payments by or on account of any obligation of Seller under any Repurchase Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of Seller) requires the deduction or withholding of any Tax from any such payment, then Seller shall make (or cause to be made) such deduction or withholding and shall timely pay (or cause to be timely paid) the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by Seller shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 12.06) Buyer receives an amount equal to the sum it would have received had no such deduction or withholding been made in respect of such Indemnified Taxes.

(b) Seller shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Seller shall indemnify Buyer, within ten (10) Business Days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 12.06) payable or paid by Buyer or required to be withheld or deducted from a payment to Buyer, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Seller by Buyer shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Taxes by Seller to a Governmental Authority pursuant to this Section 12.06, Seller shall deliver to Buyer the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Buyer.

(e) (i) If Buyer is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Repurchase Document, Buyer shall deliver to Seller, at the time or times reasonably requested by Seller, such properly completed and executed documentation reasonably requested by Seller as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, Buyer, if reasonably requested by Seller, shall deliver such other documentation prescribed by applicable law or reasonably requested by Seller as will enable Seller to determine whether or not Buyer is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 12.06(e)(ii)(A), Section 12.06(e)(ii)(B) and Section 12.06(e)(ii)(D) below) shall not be required if in Buyer's reasonable judgment such completion, execution or submission would subject Buyer to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of Buyer.

(ii) Without limiting the generality of the foregoing:

(A) if Buyer is a U.S. Person, it shall deliver to Seller on or prior to the date on which Buyer becomes a Party under this Agreement (and from time to time thereafter upon the reasonable request of Seller), executed copies of IRS Form W-9 certifying that Buyer is exempt from U.S. federal backup withholding tax;

(B) if Buyer is a Foreign Buyer, it shall, to the extent it is legally entitled to do so, deliver to Seller (in such number of copies as shall be requested by Seller) on or prior to the date on which Buyer becomes a Party under this Agreement (and from time to time thereafter upon the reasonable request of Seller), whichever of the following is applicable:

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

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Foreign Buyer claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Buyer is not a "bank" within the meaning of section 881(c)(3)(A) of the Code, a "10 percent shareholder" of Seller within the meaning of section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E (as applicable); or

(IV) to the extent a Foreign Buyer is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate or IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Buyer is a partnership and one or more direct or indirect partners of such Foreign Buyer are claiming the portfolio interest exemption, such Foreign Buyer may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner;

(C) if Buyer is a Foreign Buyer, it shall, to the extent it is legally entitled to do so, deliver to Seller (in such number of copies as shall be requested by Seller) on or prior to the date on which Buyer becomes a Party under this Agreement (and from time to time thereafter upon the reasonable request of Seller), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Seller to determine the withholding or deduction required to be made; and

(D) if a payment made to Buyer under any Repurchase Document would be subject to U.S. federal withholding Tax imposed by FATCA if Buyer were to fail to comply with the applicable reporting requirements of FATCA (including those contained in section 1471(b) or 1472(b) of the Code, as applicable), Buyer shall deliver to Seller at the time or times prescribed by law and at such time or times reasonably requested by Seller such documentation prescribed by applicable law (including as prescribed by section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Seller as may be necessary for Seller to comply with its obligations under FATCA and to determine that Buyer has complied with Buyer's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include all amendments made to FATCA after the date of this Agreement.

Buyer agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Seller in writing of its legal inability to do so.

(f) If any Party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 12.06 (including by the payment of additional amounts pursuant to this Section 12.06), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 12.06 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 12.06(f) (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 12.06(f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 12.06(f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 12.06(f) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) For the avoidance of doubt, for purposes of this Section 12.06, the term “applicable law” includes FATCA.

Section 12.07 Payment and Survival of Obligations. Buyer may at any time send Seller a notice showing the calculation of any amounts payable pursuant to this Article 12, and Seller shall pay such amounts to Buyer within ten (10) Business Days after Seller receives such notice. Each Party’s obligations under this Article 12 shall survive any assignment of rights by, or the replacement of the Buyer, the termination of the Transactions and the repayment, satisfaction or discharge of all obligations under any Repurchase Document.

## ARTICLE 13

## INDEMNITY AND EXPENSES

Section 13.01 Indemnity.

(a) Seller shall release, defend, indemnify and hold harmless Buyer, Affiliates of Buyer and its and their respective officers, directors, shareholders, partners, members, owners, employees, agents, attorneys, Affiliates and advisors (each an “Indemnified Person” and collectively the “Indemnified Persons”), against, and shall hold each Indemnified Person harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, fees, costs, expenses (including reasonable legal fees, charges, and disbursements of any counsel for any such Indemnified Person and expenses), penalties or fines of any kind that may be imposed on, incurred by or asserted against any such Indemnified Person (collectively, the "Indemnified Amounts") in any way relating to, arising out of or resulting from or in connection with (i) the Repurchase Documents, the Purchased Asset Documents, the Purchased Assets, the Pledged Collateral, the Transactions, any Mortgaged Property or related property, or any action taken or omitted to be taken by any Indemnified Person in connection with or under any of the foregoing, or any transaction contemplated hereby or thereby, or any amendment, supplement or modification of, or any waiver or consent under or in respect of any Repurchase Document, any Transaction, any Purchased Asset, any Purchased Asset Document, or any Pledged Collateral, (ii) any claims, actions or damages by an Underlying Obligor or lessee with respect to a Purchased Asset, (iii) any violation or alleged violation of, non–compliance with or liability under any Requirements of Law, (iv) ownership of, Liens on, security interests in or the exercise of rights or remedies under any of the items referred to in the preceding clause (i), (v) any accident, injury to or death of any person or loss of or damage to property occurring in, on or about any Mortgaged Property or on the adjoining sidewalks, curbs, parking areas, streets or ways, (vi) any use, nonuse or condition in, on or about, or possession, alteration, repair, operation, maintenance or management of, any Mortgaged Property or on the adjoining sidewalks, curbs, parking areas, streets or ways, (vii) any failure by Seller to perform or comply with any Repurchase Document, Purchased Asset Document or Purchased Asset, (viii) performance of any labor or services or the furnishing of any materials or other property in respect of any Mortgaged Property or Purchased Asset, (ix) any claim by brokers, finders or similar Persons claiming to be entitled to a commission in connection with any lease or other transaction involving any Repurchase Document, Purchased Asset or Mortgaged Property, (x) the execution, delivery, filing or recording of any Repurchase Document, Purchased Asset Document or any memorandum of any of the foregoing, (xi) any Lien or claim arising on or against any Purchased Asset or related Mortgaged Property under any Requirements of Law or any liability asserted against Buyer or any Indemnified Person with respect thereto, (xii) (1) a past, present or future violation or alleged violation of any Environmental Laws in connection with any Mortgaged Property by any Person or other source, whether related or unrelated to Seller or any Underlying Obligor, (2) any presence of any Materials of Environmental Concern in, on, within, above, under, near, affecting or emanating from any Mortgaged Property in violation of Environmental Law, (3) the failure to timely perform any Remedial Work required under the Purchased Asset Documents or pursuant to Environmental Law, (4) any past, present or future activity by any Person or other source, whether related or unrelated to Seller or any Underlying Obligor in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from any Mortgaged Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting any Mortgaged Property, in each case, in violation of Environmental Law, (5) any past, present or future actual Release (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting any Mortgaged Property by any Person or other source, whether related or unrelated to Seller or any Underlying Obligor, in each case, in violation of Environmental Law, (6) the imposition, recording or filing or the threatened imposition, recording or filing of any Lien on any Mortgaged Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any Environmental Law, or (7) any misrepresentation or failure to perform any obligations pursuant to any Repurchase Document or Purchased Asset Document relating to environmental matters in any way, or (xiii) Seller's conduct, activities, actions and/or inactions in connection with, relating to or arising out of any of the foregoing clauses of this Section 13.01, that, in each case, results from anything whatsoever other than any Indemnified Person's gross negligence or intentional misconduct, as determined by a court of competent jurisdiction pursuant to a final, non-appealable judgment. In any suit, proceeding or action brought by an Indemnified Person in connection with any Purchased Asset for any sum owing thereunder, or to enforce any provisions of any Purchased Asset, Seller shall defend, indemnify and hold such Indemnified Person harmless from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim, recoupment or reduction of liability whatsoever of the account debtor or Underlying Obligor arising out of a breach by Seller of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to or in favor of such account debtor or Underlying Obligor from Seller. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 13.01 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by Seller, an Indemnified Person or any other Person or any Indemnified Person is otherwise a party thereto and whether or not any Transaction is entered into. This Section 13.01(a) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(b) If for any reason the indemnification provided in this Section 13.01 is unavailable to the Indemnified Person or is insufficient to hold an Indemnified Person harmless, even though such Indemnified Person is entitled to indemnification under the express terms hereof, then Seller shall contribute to the amount paid or payable by such Indemnified Person as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative benefits received by such Indemnified Person on the one hand and Seller on the other hand, the relative fault of such Indemnified Person, and any other relevant equitable considerations.

(c) An Indemnified Person may at any time send Seller a notice showing the calculation of Indemnified Amounts, and Seller shall pay such Indemnified Amounts to such Indemnified Person within ten (10) Business Days after Seller receives such notice. The obligations of Seller under this Section 13.01 shall apply (without duplication) to Eligible Assignees and Participants hereunder and survive the termination of this Agreement.

Section 13.02 Expenses. Seller shall promptly on demand pay to or as directed by Buyer all third-party out-of-pocket costs and expenses, including legal, accounting and advisory fees and expenses) incurred by Buyer in connection with (a) the development, evaluation, preparation, negotiation, execution, consummation, delivery and administration of, and any amendment, supplement or modification to, or extension, renewal or waiver of, the Repurchase Documents and the Transactions, (b) any Asset or Purchased Asset, including pre-purchase and/or ongoing due diligence, inspection, testing, review, recording, registration, travel custody, care, insurance or preservation, (c) the enforcement of the Repurchase Documents or the payment or performance by Seller of any Repurchase Obligations, and (d) any actual or attempted sale, exchange, enforcement, collection, compromise or settlement relating to the Purchased Assets.

## ARTICLE 14 INTENT

Section 14.01 Safe Harbor Treatment. The Parties intend (a) for this Agreement and each Transaction to qualify for the safe harbor treatment provided by the Bankruptcy Code and for Buyer to be entitled to all of the rights, benefits and protections afforded to Persons under the Bankruptcy Code with respect to a "repurchase agreement" as defined in Section 101(47) of the Bankruptcy Code (to the extent that a Transaction has a Repurchase Date not later than one (1) year) after the date of transfer or may be repurchased on demand) and a "securities contract" as defined in Section 741(7) of the Bankruptcy Code and that payments and transfers under this Agreement constitute transfers made by, to or for the benefit of a financial institution, financial participant or repo participant within the meaning of Section 546(e) or 546(f) of the Bankruptcy Code, (b) the Guarantee Agreement and the Pledge Agreement each constitute a security agreement or arrangement or other credit enhancement within the meaning of Section 101 of the Code related to a "securities contract" as defined in Section 741(7)(A)(xi) of the Bankruptcy Code and, to the extent that the Guarantee Agreement and the Pledge Agreement relate to a Transaction that has a Repurchase Date not later than one (1) year after the date of transfer or may be repurchased on demand, a "repurchase agreement" as that term is defined in Section 101(47)(A)(v) of the Bankruptcy Code, and (c) that Buyer (for so long as Buyer is a "financial institution," "financial participant," "repo participant," "master netting participant" or other entity listed in Section 555, 559, 561, 362(b)(6), 362(b)(7) or 362(b)(27) of the Bankruptcy Code) shall be entitled to the "safe harbor" benefits and protections afforded under the Bankruptcy Code with respect to a "repurchase agreement," "securities contract" and a "master netting agreement," including (x) the rights, set forth in Article 10 and in Sections 555, 559 and 561 of the Bankruptcy Code, to liquidate the Purchased Assets and terminate this Agreement, and (y) the right to offset or net out as set forth in Article 10 and Section 18.16 and in Sections 362(b)(6), 362(b)(7), 362(b)(27), 362(o) and 546 of the Bankruptcy Code.

Section 14.02 Liquidation. The Parties intend that Buyer's right to liquidate Purchased Assets delivered to it in connection with Transactions hereunder or to exercise any setoff and netting rights under Section 18.16 or any other remedies pursuant to Articles 10 and 11 and as otherwise provided in the Repurchase Documents is a contractual right to liquidate such Transactions as described in Sections 555, 559 and 561 of the Bankruptcy Code.

Section 14.03 Qualified Financial Contract. The Parties intend that if a Party is an "insured depository institution," as such term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), then each Transaction hereunder is a "qualified financial contract," as that term is defined in FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

Section 14.04 Netting Contract. The Parties acknowledge and agree that this Agreement constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") and each payment entitlement and payment obligation under any Transaction shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation," respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a "financial institution" as that term is defined in FDICIA).

Section 14.05 Master Netting Agreement. The Parties intend that this Agreement, the Guarantee Agreement and the Pledge Agreement constitutes a "master netting agreement" as defined in Section 101(38A) of the Bankruptcy Code.

**ARTICLE 15**

**DISCLOSURE RELATING TO CERTAIN FEDERAL PROTECTIONS**

The Parties acknowledge that they have been advised and understand that:

(a) if one of the Parties is a broker or dealer registered with the Securities and Exchange Commission under Section 14 of the Exchange Act, the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 do not protect the other Party with respect to any Transaction;

(b) if one of the Parties is a government securities broker or a government securities dealer registered with the Securities and Exchange Commission under Section 14C of the Exchange Act, the Securities Investor Protection Act of 1970 will not provide protection to the other Party with respect to any Transaction;

(c) if one of the Parties is a financial institution, funds held by or on behalf of the financial institution pursuant to any Transaction are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable; and

(d) if one of the Parties is an "insured depository institution" as that term is defined in Section 1813(c)(2) of Title 12 of the United States Code, funds held by or on behalf of the financial institution pursuant to any Transaction are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund or the Bank Insurance Fund, as applicable.

**ARTICLE 16**

**NO RELIANCE**

Each Party acknowledges, represents and warrants to the other Party that, in connection with the negotiation of, entering into, and performance under, the Repurchase Documents and each Transaction:

(a) It is not relying (for purposes of making any investment decision or otherwise) on any advice, counsel or representations (whether written or oral) of the other Party, other than the representations expressly set forth in the Repurchase Documents;

(b) It has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisors to the extent that it has deemed necessary, and it has made its own investment, hedging and trading decisions (including decisions regarding the suitability of any Transaction) based on its own judgment and on any advice from such advisors as it has deemed necessary and not on any view expressed by the other Party;

(c) It is a sophisticated and informed Person that has a full understanding of all the terms, conditions and risks (economic and otherwise) of the Repurchase Documents and each Transaction and is capable of assuming and willing to assume (financially and otherwise) those risks;

(d) It is entering into the Repurchase Documents and each Transaction for the purposes of managing its borrowings or investments or hedging its underlying assets or liabilities and not for purposes of speculation;

(e) It is not acting as a fiduciary or financial, investment or commodity trading advisor for the other Party and has not given the other Party (directly or indirectly through any other Person) any assurance, guaranty or representation whatsoever as to the merits (either legal, regulatory, tax, business, investment, financial accounting or otherwise) of the Repurchase Documents or any Transaction; and

(f) No partnership or joint venture exists or will exist as a result of the Transactions or entering into and performing the Repurchase Documents.

## ARTICLE 17 SERVICING

This Article 17 shall apply to all Purchased Assets.

Section 17.01 Servicing Rights. Buyer is the owner of all Servicing Rights. Without limiting the generality of the foregoing, Buyer shall have the right to hire or otherwise engage any Person to service or sub-service all or part of the Purchased Assets, provided, however, that so long as no Event of Default has occurred and is continuing, Seller may designate one or more Servicers to be selected by Buyer, so long as each such Servicer is reasonably acceptable to Buyer, and each such Person shall have only such servicing obligations with respect to such Purchased Assets as are approved by Buyer. Notwithstanding the preceding sentence, Buyer agrees with Seller as follows with respect to the servicing of the Purchased Assets:

(a) Each Servicer shall service the Purchased Assets on behalf of Buyer. Each Servicing Agreement shall contain provisions which are consistent with this Article 17 and must otherwise be in form and substance satisfactory to Buyer, it being understood that (i) in all cases where an Affiliate of Seller is the Servicer, the related Servicing Agreement shall be in the form approved by Buyer, and (ii) in all cases where Wells Fargo Bank, National Association is the Servicer, the related Servicing Agreement shall be in the form attached hereto as Exhibit I.

(b) Unless they have previously done so, contemporaneously with the execution of this Agreement on the Closing Date, Buyer will enter into, and cause each Servicer to enter into, a Servicing Agreement. Each Servicing Agreement, where the Servicer is not Buyer or an Affiliate of Buyer shall automatically terminate on the 30th day following its execution and at the end of each thirty (30) day period thereafter unless, in each case, Buyer shall agree, by prior written notice to the related Servicer to be delivered on or before the Remittance Date immediately preceding each such scheduled termination date, to extend the termination date an additional thirty (30) days, which extension notice may be provided by email. Neither Seller nor the related Servicer may assign its rights or obligations under the related Servicing Agreement without the prior written consent of Buyer.

(c) Notwithstanding that Buyer owns all Servicing Rights, subject to Sections 17.01(b) and 17.01(e), Buyer hereby grants Seller, for so long as no Event of Default has occurred and is continuing, the right to direct each Servicer under the terms of, and in accordance with, each applicable Servicing Agreement and this Agreement, unless such direction results in, or relates to a request for, any matter that could reasonably be expected to result in a Material Modification. Notwithstanding the foregoing, Seller shall not direct any Servicer to (i) make any Material Modification without the prior written consent of Buyer or (ii) take any action which would result in a violation of the obligations of any Person under the related Servicing Agreement, this Agreement or any other Repurchase Document, or which would otherwise be inconsistent with the rights of Buyer under the Repurchase Documents. Buyer, as owner of the Purchased Assets, shall own all related servicing and voting rights and, as owner, shall act as servicer with respect to the Purchased Assets, subject to an interim revocable option from Buyer in favor of Seller, which is hereby granted, to direct each related Servicer, so long as no monetary or material non-monetary Default or any Event of Default has occurred and is continuing; provided, however, that Seller cannot give any direction or take any action that could materially adversely affect the value or collectability of any amounts due with respect to the Purchased Assets without the consent of Buyer. Such revocable option is not evidence of any ownership or other interest or right of Seller in any Purchased Asset.

(d) The servicing fee payable to each Servicer shall be payable as a servicing fee in accordance with this Agreement and each Servicing Agreement, including without limitation pursuant to priority *sixth* of Section 5.02 or priority *third* of Section 5.03, as applicable, but all such servicing and any applicable sub-servicing fees shall be the sole responsibility of Seller.

(e) Upon the occurrence and during the continuance of an Event of Default under this Agreement, in addition to all of the other rights and remedies of Buyer and each related Servicer under each Servicing Agreement, this Agreement and the other Repurchase Documents (and in addition to the provisions of each Servicing Agreement providing for termination of each such Servicing Agreement pursuant to its terms), (i) for the avoidance of doubt, the right, if any, of any person other than Buyer or its Affiliates to direct the servicing of the Purchased Assets shall immediately and automatically cease to exist, and (ii) either Buyer or each Servicer may at any time terminate the related Servicing Agreement immediately upon the delivery of a written termination notice from either Buyer or the related Servicer to Seller. Seller shall pay all expenses associated with any such termination, including without limitation any fees and expenses required in connection with the transfer of servicing to the related Servicer and/or a replacement Servicer.

(f) No Servicing Agreement may be amended or modified, and no provision thereof may be waived, in each case without the prior written approval of Buyer, as determined in its sole discretion.

Section 17.02 Reserved.

Section 17.03 Servicing Reports. Seller shall deliver (or cause each Servicer to deliver to Buyer and Custodian a monthly remittance report on or before the second Business Day immediately preceding each monthly Remittance Date containing servicing information, including those fields reasonably requested by Buyer from time to time, on an asset by asset basis and in the aggregate, with respect to the Purchased Assets for the month (or any portion thereof) before the date of such report.

Section 17.04 Servicer Event of Default. If an Event of Default or Servicer Event of Default exists, Buyer shall have the right at any time thereafter to terminate the related Servicing Agreement (or, in the case of an Event of Default, all of the Servicing Agreements) and transfer servicing of the related Purchased Assets to Buyer or its designee, at no cost or expense to Buyer, it being agreed that Seller will pay any fees and expenses required to terminate such Servicing Agreement and transfer servicing to Buyer or its designee.

## ARTICLE 18

## MISCELLANEOUS

Section 18.01 Governing Law. **THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, THE RELATIONSHIP OF THE PARTIES TO THIS AGREEMENT, AND/OR THE INTERPRETATION AND ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES TO THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS AND DECISIONS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CHOICE OF LAW RULES THEREOF. THE PARTIES HERETO INTEND THAT THE PROVISIONS OF SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW SHALL APPLY TO THIS AGREEMENT.**

Section 18.02 Submission to Jurisdiction; Service of Process. Each Party irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to the Repurchase Documents, or for recognition or enforcement of any judgment, and each Party irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such State court or, to the fullest extent permitted by applicable law, in such Federal court. Each Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or the other Repurchase Documents shall affect any right that Buyer may otherwise have to bring any action or proceeding arising out of or relating to the Repurchase Documents against Seller or its properties in the courts of any jurisdiction. Seller irrevocably and unconditionally waives, to the fullest extent permitted by Requirements of Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to the Repurchase Documents in any court referred to above, and the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Each Party irrevocably consents to service of process in the manner provided for notices in Section 18.11. Nothing in this Agreement will affect the right of any Party hereto to serve process in any other manner permitted by applicable law.

Section 18.03 Important Waivers.

(a) SELLER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO ASSERT A COUNTERCLAIM, OTHER THAN A COMPULSORY COUNTERCLAIM, IN ANY ACTION OR PROCEEDING BROUGHT AGAINST IT BY BUYER OR ANY INDEMNIFIED PERSON.

(b) TO THE EXTENT PERMITTED BY REQUIREMENTS OF LAW, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE BETWEEN THEM, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, CONNECTED WITH OR RELATED TO THE REPURCHASE DOCUMENTS, THE PURCHASED ASSETS, THE PLEDGED COLLATERAL, THE TRANSACTIONS, ANY DEALINGS OR COURSE OF CONDUCT BETWEEN THEM, OR ANY STATEMENTS (WRITTEN OR ORAL) OR OTHER ACTIONS OF EITHER PARTY. NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. INSTEAD, ANY SUCH DISPUTE RESOLVED IN COURT WILL BE RESOLVED IN A BENCH TRIAL WITHOUT A JURY.

(c) TO THE EXTENT PERMITTED BY REQUIREMENTS OF LAW, EACH PARTY HEREBY WAIVES ANY RIGHT TO CLAIM OR RECOVER IN ANY LITIGATION WHATSOEVER INVOLVING ANY INDEMNIFIED PERSON, ANY SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES, WHETHER SUCH WAIVED DAMAGES ARE BASED ON STATUTE, CONTRACT, TORT, COMMON LAW OR ANY OTHER LEGAL THEORY, WHETHER THE LIKELIHOOD OF SUCH DAMAGES WAS KNOWN AND REGARDLESS OF THE FORM OF THE CLAIM OF ACTION. NO INDEMNIFIED PERSON OR OTHER PARTY SHALL BE LIABLE FOR ANY DAMAGES ARISING FROM THE USE BY UNINTENDED RECIPIENTS OF ANY INFORMATION OR OTHER MATERIALS DISTRIBUTED BY IT THROUGH TELECOMMUNICATIONS, ELECTRONIC OR OTHER INFORMATION TRANSMISSION SYSTEMS IN CONNECTION WITH ANY REPURCHASE DOCUMENT OR THE TRANSACTIONS.

(d) SELLER CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF BUYER OR AN INDEMNIFIED PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BUYER OR AN INDEMNIFIED PERSON WOULD NOT SEEK TO ENFORCE ANY OF THE WAIVERS IN THIS SECTION 18.03 IN THE EVENT OF LITIGATION OR OTHER CIRCUMSTANCES. THE SCOPE OF SUCH WAIVERS IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THE REPURCHASE DOCUMENTS, REGARDLESS OF THEIR LEGAL THEORY.

(e) EACH PARTY ACKNOWLEDGES THAT THE WAIVERS IN THIS SECTION 18.03 ARE A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT SUCH PARTY HAS ALREADY RELIED ON SUCH WAIVERS IN ENTERING INTO THE REPURCHASE DOCUMENTS, AND THAT SUCH PARTY WILL CONTINUE TO RELY ON SUCH WAIVERS IN THEIR RELATED FUTURE DEALINGS UNDER THE REPURCHASE DOCUMENTS. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS REVIEWED SUCH WAIVERS WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS RIGHT TO A JURY TRIAL AND OTHER RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

(f) THE WAIVERS IN THIS SECTION 18.03 ARE IRREVOCABLE, MEANING THAT THEY MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND SHALL APPLY TO ANY AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO ANY OF THE REPURCHASE DOCUMENTS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(g) THE PROVISIONS OF THIS SECTION 18.03 SHALL SURVIVE TERMINATION OF THE REPURCHASE DOCUMENTS AND THE INDEFEASIBLE PAYMENT IN FULL OF THE REPURCHASE OBLIGATIONS.

Section 18.04 Integration; Severability. The Repurchase Documents supersede and integrate all previous negotiations, contracts, agreements and understandings (whether written or oral), including, without limitation, the Term Sheet, between the Parties relating to a sale and repurchase of Purchased Assets and the other matters addressed by the Repurchase Documents, and contain the entire final agreement of the Parties relating to the subject matter thereof. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 18.05 Single Agreement. Seller agrees that (a) each Transaction is in consideration of and in reliance on the fact that all Transactions constitute a single business and contractual relationship, and that each Transaction has been entered into in consideration of the other Transactions, (b) a default by it in the payment or performance of any its obligations under a Transaction shall constitute a default by it with respect to all Transactions, (c) Buyer may set off claims and apply properties and assets held by or on behalf of Buyer with respect to any Transaction against the Repurchase Obligations owing to Buyer with respect to other Transactions, and (d) payments, deliveries and other transfers made by or on behalf of Seller with respect to any Transaction shall be deemed to have been made in consideration of payments, deliveries and other transfers with respect to all Transactions, and the obligations of Seller to make any such payments, deliveries and other transfers may be applied against each other and netted.

Section 18.06 Survival and Benefit of Seller's Agreements. The Repurchase Documents and all Transactions shall be binding on and shall inure to the benefit of the Parties and their successors and permitted assigns. All of Seller's representations, warranties, agreements and indemnities in the Repurchase Documents shall survive the termination of the Repurchase Documents and the payment in full of the Repurchase Obligations, and shall apply to and benefit all Indemnified Persons, Buyer and its successors and assigns, together with all assignees and Participants hereunder. No other Person shall be entitled to any benefit, right, power, remedy or claim under the Repurchase Documents.

Section 18.07 Assignments and Participations.

(a) None of Guarantor, Pledgor or Seller shall sell, assign or transfer any of their respective rights or the Repurchase Obligations or delegate any of their respective duties under this Agreement or any other Repurchase Document without the prior written consent of Buyer, and any attempt to do so without such consent shall be null and void.

(b) Buyer may at any time, without the consent of Seller, Pledgor, Sponsor or Guarantor, and at Buyer's sole cost and expense, sell participations to any Eligible Assignee (other than a natural person or Seller, Sponsor, Pledgor, any Intermediate Entity, Guarantor or any of their respective Affiliates) (a "Participant") in all or any portion of Buyer's rights and/or obligations under the Repurchase Documents; provided that (x) if a monetary or material non-monetary Default or any an Event of Default has occurred and is continuing, Buyer may sell participations to any Person at any time without consent, notice or restriction of any kind, other than the requirements set forth in clause (iv) below, and (y) so long as no monetary or material non-monetary Default or any Event of Default has occurred and is continuing: (i) Buyer's obligations under the Repurchase Documents shall remain unchanged, (ii) Buyer shall remain solely responsible to Seller for the performance of such obligations, (iii) Seller shall continue to deal solely and directly with Buyer in connection with Buyer's rights and obligations under the Repurchase Documents, (iv) each Participant agrees to be bound by the confidentiality provisions set forth in Section 18.09, and (v) provided that, so long as no Event of Default exists, Buyer shall retain ultimate decision-making authority under the Repurchase Documents. So long as no monetary or material non-monetary Default or any Event of Default has occurred and is continuing, no Participant shall have any right to approve any amendment, waiver or consent with respect to any Repurchase Document, except to the extent that the Repurchase Price or Price Differential of any Purchased Asset would be reduced or the Repurchase Date of any Purchased Asset would be postponed. Each Participant shall be entitled to the benefits of Article 12 (subject to the requirements and limitations therein, including the requirements under

Section 12.06(e) (it being understood that the documentation required under Section 12.06(e) shall be delivered to the participating Buyer)) and Article 13 to the same extent as if it had acquired its interest by assignment pursuant to Section 18.07(c), provided that such Participant shall not be entitled to receive any greater payment under Section 12.04 or Section 12.06 than its participating Buyer would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from the adoption of or any change in any Requirements of Law or in the interpretation or application thereof by a Governmental Authority or compliance by Buyer or such Participant with a request or directive (whether or not having the force of law) from a central bank or other Governmental Authority having jurisdiction over Buyer or such Participant, in each case made or issued after the Participant acquired the applicable participation. To the extent permitted by Requirements of Law, each Participant shall also be entitled to the benefits of Sections 10.02(i) and 18.16 to the same extent as if it had acquired its interest by assignment pursuant to Section 18.07(c).

(c) Buyer may at any time, without the consent of Seller, Pledgor, Sponsor or Guarantor but upon notice to Seller, and at Buyer's sole cost and expense, sell and assign all or any portion of all of the rights and obligations of Buyer under the Repurchase Documents to any Eligible Assignee proposed by Buyer; provided that if a monetary or material non-monetary Default or any Event of Default has occurred and is continuing, Buyer may enter into any such sale and assignments with any Person at any time without consent, notice or restriction of any kind. Each such assignment shall be made pursuant to an Assignment and Acceptance substantially in the form of Exhibit F (an "Assignment and Acceptance"). From and after the effective date of such Assignment and Acceptance, (i) each such assignee shall be a Party and, to the extent provided therein, have the rights and obligations of Buyer under the Repurchase Documents with respect to the percentage and amount of the Repurchase Price allocated to it, (ii) Buyer shall, to the extent provided therein, be released from such obligations (and, in the case of an Assignment and Acceptance covering all or the remaining portion of Buyer's rights and obligations under the Repurchase Documents, Buyer shall cease to be a Party), (iii) the obligations of Buyer shall be deemed to be so reduced, and (iv) Buyer will give prompt written notice thereof (including identification of the related assignee and the amount of Repurchase Price allocated to it) to each Party (but Buyer shall not have any liability for any failure to timely provide such notice). Any sale or assignment by Buyer of rights or obligations under the Repurchase Documents that does not comply with this Section 18.07(c) shall be treated for purposes of the Repurchase Documents as a sale by such Buyer of a participation in such rights and obligations in accordance with Section 18.07(b).

(d) Seller shall cooperate with Buyer in connection with any such sale and assignment of participations, syndications or assignments and shall enter into such restatements of, and amendments, supplements and other modifications to, the Repurchase Documents to give effect to any such sale or assignment; provided, that none of the foregoing shall change any economic or other material term of the Repurchase Documents in a manner adverse to Seller without the consent of Seller and shall be at no cost to Seller.

(e) Buyer, at Buyer's sole cost and expense, shall have the right to partially or completely syndicate any or all of its rights under this Agreement and the other Repurchase Documents to any Eligible Assignee so long as, prior to the occurrence and during the continuance of a monetary or material non-monetary Default or any Event of Default, Buyer shall remain solely responsible to Seller for the performance by Buyer of its obligations under the Repurchase Documents.

(f) Buyer, acting solely for this purpose as a non-fiduciary agent of Seller, shall maintain a copy of each Assignment and Acceptance and a register for the recordation of the names and addresses of the assignees that become Parties hereto and, with respect to each such assignees, the aggregate assigned Purchase Price and applicable Price Differential (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Parties shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Buyer for all purposes of this Agreement. The Register shall be available for inspection by the Parties at any reasonable time and from time to time upon reasonable prior notice.

(g) If Buyer sells a participation of its rights hereunder, it shall, acting solely for this purpose as a non-fiduciary agent of Seller, maintain a register on which it enters the name and address of each Participant and, with respect to each such Participant, the aggregate participated Purchase Price and applicable Price Differential, and any other interest in any obligations under the Repurchase Documents (the "Participant Register"); provided that no Party shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any obligations under any Repurchase Document) to any Person except to the extent that such disclosure is necessary to establish that such obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and the participating Party shall treat each Person whose name is recorded in the Participant Register as the owner of the applicable participation for all purposes of this Agreement notwithstanding any notice to the contrary.

Section 18.08 Ownership and Hypothecation of Purchased Assets. Title to all Purchased Assets shall pass to and vest in Buyer on the applicable Purchase Dates and, subject to the terms of the Repurchase Documents, Buyer or its designee shall have free and unrestricted use of all Purchased Assets and be entitled to exercise all rights, privileges and options relating to the Purchased Assets as the owner thereof, including rights of subscription, conversion, exchange, substitution, voting, consent and approval, and to direct any servicer or trustee. Buyer or its designee may, at any time, without the consent of Seller, Pledgor, Sponsor, or Guarantor, engage in repurchase transactions with the Purchased Assets or otherwise sell, pledge, repledge, transfer, hypothecate, or rehypothecate the Purchased Assets to any Eligible Assignee, all on terms that Buyer may determine; provided, that (i) if a monetary or material non-monetary Default or any Event of Default has occurred and is continuing, Buyer may engage in repurchase transactions with the Purchased Assets or otherwise sell, pledge, repledge, transfer, hypothecate, or rehypothecate the Purchased Assets to any Person at any time without consent, notice or restriction of any kind and (ii) no such transaction shall affect the obligations of Buyer to transfer the Purchased Assets to Seller on the applicable Repurchase Dates free and clear of any pledge, Lien, security interest, encumbrance, charge or other adverse claim. In the event Buyer engages in a repurchase transaction with any of the Purchased Assets or otherwise pledges or hypothecates any of the Purchased Assets, Buyer shall have the right to assign to Buyer's counterparty any of the applicable representations or warranties herein and the remedies for breach thereof, as they relate to the Purchased Assets that are subject to such repurchase transaction.

Section 18.09 Confidentiality. All information regarding the terms set forth in any of the Repurchase Documents or the Transactions, including any information given by Seller to Buyer in connection with a Transaction, shall be kept confidential and shall not be disclosed by either Party to any Person except (a) to the Affiliates of such Party or its or their respective directors, officers, employees, agents, advisors, attorneys, accountants and other representatives who are informed of the confidential nature of such information and instructed to keep it confidential, and who need and will use such information exclusively in connection with administering this Agreement and the Transactions hereunder, (b) to the extent requested by any regulatory authority, stock exchange, government department or agency, or required by Requirements of Law, in which case the disclosing Party agrees, to the extent permitted by Requirements of Law, to inform the other Party promptly thereof, (c) to the extent required to be included in the financial statements of either Party or an Affiliate thereof, (d) to the extent required to exercise any rights or remedies under the Repurchase Documents, Purchased Assets or Mortgaged Properties, (e) to the extent required to consummate and administer a Transaction,

(f) to any actual or prospective Participant or Eligible Assignee which agrees to comply with this Section 18.09, and (g) to the extent required in connection with any litigation between the parties in connection with any Repurchase Document or any Transaction; provided, that, except with respect to the disclosures by Buyer under clause (g) of this Section 18.09, no such disclosure made with respect to any Repurchase Document shall include a copy of such Repurchase Document to the extent that a summary would suffice, but if it is necessary for a copy of any Repurchase Document to be disclosed, all pricing and other economic terms set forth therein shall be redacted before disclosure.

Section 18.10 No Implied Waivers; Amendments. No failure on the part of Buyer to exercise, or delay in exercising, any right or remedy under the Repurchase Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy thereunder preclude any further exercise thereof or the exercise of any other right. The rights and remedies in the Repurchase Documents are cumulative and not exclusive of any rights and remedies provided by law. Application of the Default Rate after an Event of Default shall not be deemed to constitute a waiver of any Event of Default or Buyer's rights and remedies with respect thereto, or a consent to any extension of time for the payment or performance of any obligation with respect to which the Default Rate is applied. Except as otherwise expressly provided in the Repurchase Documents, neither Seller nor any of its Affiliates shall agree to any amendment, waiver or other modification of any provision of the Repurchase Documents without the signed agreement of Buyer. Any waiver or consent under the Repurchase Documents shall be effective only if it is in writing and only in the specific instance and for the specific purpose for which given.

Section 18.11 Notices and Other Communications. Unless otherwise provided in this Agreement, all notices, consents, approvals, requests and other communications required or permitted to be given to a Party hereunder shall be in writing and sent prepaid by hand delivery, by certified or registered mail, by expedited commercial or postal delivery service, or by email if also sent by one of the foregoing, to the address for such Party specified in Annex 1 or such other address as such Party shall specify from time to time in a notice to the other Party. Any of the foregoing communications shall be effective when delivered, if such delivery occurs on a Business Day; otherwise, each such communication shall be effective on the first Business Day following the date of such delivery. A Party receiving a notice that does not comply with the technical requirements of this Section 18.11 may elect to waive any deficiencies and treat the notice as having been properly given.

Section 18.12 Counterparts; Electronic Transmission. This Agreement and any other Repurchase Document may be executed in separate counterparts, each of which when so executed and delivered shall be deemed to be an original, but all of which shall together constitute but one and the same instrument. The Parties agree that this Agreement, any documents to be delivered pursuant to this Agreement, any other Repurchase Document and any notices hereunder may be transmitted between them by email. The Parties intend that faxed signatures and electronically imaged signatures such as .pdf files shall constitute original signatures and are binding on all parties.

Section 18.13 No Personal Liability. No administrator, incorporator, Affiliate, owner, member, partner, stockholder, officer, director, employee, agent or attorney of Buyer, any Indemnified Person, Seller, Pledgor, Sponsor, each Intermediate Entity or Guarantor, as such, shall be subject to any recourse or personal liability under or with respect to any obligation of Buyer, Seller, Pledgor or Guarantor under the Repurchase Documents, whether by the enforcement of any assessment, by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed that the obligations of Buyer, Seller, Pledgor or Guarantor under the Repurchase Documents are solely their respective corporate, limited liability company or partnership obligations, as applicable, and that any such recourse or personal liability is hereby expressly waived. This Section 18.13 shall survive the termination of the Repurchase Documents and the repayment in full of the Repurchase Obligations, and each beneficiary of this Section 18.13 shall be a third-party beneficiary of this Section 18.13 with rights to enforce this Section.

Section 18.14 Protection of Buyer’s Interests in the Purchased Assets; Further Assurances.

(a) Seller shall take such action as necessary to cause the Repurchase Documents and/or all financing statements and continuation statements and any other necessary documents covering the right, title and interest of Buyer to the Purchased Assets to be promptly recorded, registered and filed, and at all times to be kept recorded, registered and filed, all in such manner and in such places as may be required by law fully to preserve and protect such right, title and interest. Seller shall deliver to Buyer file–stamped copies of, or filing receipts for, any document recorded, registered or filed as provided above, as soon as available following such recording, registration or filing. Seller shall execute any and all documents reasonably required to fulfill the intent of this Section 18.14.

(b) Seller will promptly at its expense execute and deliver such instruments and documents and take such other actions as Buyer may reasonably request from time to time in order to perfect, protect, evidence, exercise and enforce Buyer’s rights and remedies under and with respect to the Repurchase Documents, the Transactions and the Purchased Assets. Seller, Pledgor and Guarantor shall, promptly upon Buyer’s request, deliver documentation in form and substance satisfactory to Buyer which Buyer deems necessary or desirable to evidence compliance with all applicable "know your customer" due diligence checks, including, but not limited to, any information required to be obtained by Buyer pursuant to the Beneficial Ownership Regulation.

(c) If Seller fails to perform any of its Repurchase Obligations, then Buyer may (but shall not be required to) perform or cause to be performed such Repurchase Obligation, and the costs and expenses incurred by Buyer in connection therewith shall be payable by Seller. Without limiting the generality of the foregoing, Seller authorizes Buyer, at the option of Buyer and the expense of Seller, at any time and from time to time, to take all actions and pay all amounts that Buyer deems necessary or appropriate to protect, enforce, preserve, insure, service, administer, manage, perform, maintain, safeguard, collect or realize on the Purchased Assets and Buyer's Liens and interests therein or thereon and to give effect to the intent of the Repurchase Documents. No Default or Event of Default shall be cured by the payment or performance of any Repurchase Obligation by Buyer on behalf of Seller. Buyer may make any such payment in accordance with any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax Lien, title or claim except to the extent such payment is being contested in good faith by Seller in appropriate proceedings and against which adequate reserves are being maintained in accordance with GAAP.

(d) Without limiting the generality of the foregoing, Seller will no earlier than six (6) months or later than three (3) months before the fifth (5th) anniversary of the date of filing of each UCC financing statement filed in connection with any Repurchase Document or any Transaction, if this Agreement is then in effect (i) deliver and file or cause to be filed an appropriate continuation statement with respect to such financing statement (provided that Buyer may elect to file such continuation statement), and (ii) deliver or cause to be delivered to Buyer an opinion of counsel, in form and substance reasonably satisfactory to Buyer, confirming and updating the security interest opinion delivered pursuant to Section 6.01(a) with respect to perfection and otherwise to the effect that the security interests hereunder continue to be enforceable and perfected security interests, which opinion may contain usual and customary assumptions, limitations and exceptions.

(e) Except as provided in the Repurchase Documents, the sole duty of Buyer, Custodian or any other designee or agent of Buyer with respect to the Purchased Assets shall be to use reasonable care in the custody, use, operation and preservation of the Purchased Assets in its possession or control. Buyer shall incur no liability to Seller or any other Person for any act of Governmental Authority, act of God or other destruction in whole or in part or negligence or wrongful act of custodians or agents selected by Buyer with reasonable care, or Buyer's failure to provide adequate protection or insurance for the Purchased Assets. Buyer shall have no obligation to take any action to preserve any rights of Seller in any Purchased Asset against prior parties, and Seller hereby agrees to take such action. Buyer shall have no obligation to realize upon any Purchased Asset except through proper application of any distributions with respect to the Purchased Assets made directly to Buyer or its agent(s). So long as Buyer and Custodian shall act in good faith in their handling of the Purchased Assets, Seller waives or is deemed to have waived the defense of impairment of the Purchased Assets by Buyer and Custodian.

Section 18.15 Default Rate. To the extent permitted by Requirements of Law, Seller shall pay interest at the Default Rate on the amount of all Repurchase Obligations not paid when due under the Repurchase Documents until such Repurchase Obligations are paid or satisfied in full.

Section 18.16 Set-off. In addition to any rights now or hereafter granted under the Repurchase Documents, Requirements of Law or otherwise, Seller hereby grants to Buyer and each Indemnified Person, to secure repayment of the Repurchase Obligations, a right of set-off upon any and all of the following: monies, securities, collateral or other property of Seller and any proceeds from the foregoing, now or hereafter held or received by Buyer, any Affiliate of Buyer or any Indemnified Person, for the account of Seller, whether for safekeeping, custody, pledge, transmission, collection or otherwise, and also upon any and all deposits (general, specified, special, time, demand, provisional or final) and credits, claims or Indebtedness of Seller at any time existing, and any obligation owed by Buyer or any Affiliate of Buyer to Seller and to set–off against any Repurchase Obligations or Indebtedness owed by Seller or Pledgor and any Indebtedness owed by Buyer, any Affiliate of Buyer or any Indemnified Person to Seller, in each case whether direct or indirect, absolute or contingent, matured or unmatured, whether or not arising under the Repurchase Documents and irrespective of the currency, place of payment or booking office of the amount or obligation and in each case at any time held or owing by Buyer, any Affiliate of Buyer or any Indemnified Person to or for the credit of Seller without prejudice to Buyer's right to recover any deficiency. Each of Buyer, each Affiliate of Buyer and each Indemnified Person is hereby authorized upon any amount becoming due and payable by Seller to Buyer or Pledgor to Buyer or any Indemnified Person under the Repurchase Documents, the Repurchase Obligations or otherwise or upon the occurrence of an Event of Default, without notice to Seller, any such notice being expressly waived by Seller to the extent permitted by any Requirements of Law, to set–off, appropriate, apply and enforce such right of set–off against any and all items hereinabove referred to against any amounts owing to Buyer, any Affiliate of Buyer or any Indemnified Person by Seller or Pledgor under the Repurchase Documents and the Repurchase Obligations, irrespective of whether Buyer, any Affiliate of Buyer or any Indemnified Person shall have made any demand under the Repurchase Documents and regardless of any other collateral securing such amounts, and in all cases without waiver or prejudice of Buyer's rights to recover a deficiency. Seller and Pledgor shall be deemed directly indebted to Buyer, any Affiliate of Buyer and the other Indemnified Persons in the full amount of all amounts owing to Buyer, any Affiliate of Buyer and the other Indemnified Persons by Seller or Pledgor under the Repurchase Documents and the Repurchase Obligations, and Buyer shall be entitled to exercise the rights of set–off provided for above. ANY AND ALL RIGHTS TO REQUIRE BUYER, ANY AFFILIATE OF BUYER OR ANY OTHER INDEMNIFIED PERSONS TO EXERCISE THEIR RIGHTS OR REMEDIES WITH RESPECT TO THE PURCHASED ASSETS, THE PLEDGED COLLATERAL OR OTHER INDEMNIFIED PERSONS UNDER THE REPURCHASE DOCUMENTS, PRIOR TO EXERCISING THE FOREGOING RIGHT OF SET–OFF, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED BY SELLER.

Buyer, any Affiliate of Buyer or any Indemnified Person shall promptly notify Seller after any such set-off and application made by Buyer, any Affiliate of Buyer or such Indemnified Person, provided that the failure to give such notice shall not affect the validity of such set–off and application. If an amount or obligation is unascertained, Buyer, any Affiliate of Buyer or any Indemnified Person may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other party when the amount or obligation is ascertained. Nothing in this Section 18.16 shall be effective to create a charge or other security interest. This Section 18.16 shall be without prejudice and in addition to any right of set-off, combination of accounts, Lien or other rights to which Buyer, any Affiliate of Buyer or any Indemnified Person is at any time otherwise entitled.

Section 18.17 Seller's Waiver of Set-off. Seller hereby waives any right of set-off it may have or to which it may be or become entitled under the Repurchase Documents or otherwise against Buyer, any Affiliate of Buyer, any Indemnified Person or their respective assets or properties.

Section 18.18 Power of Attorney. Seller hereby authorizes Buyer to file such financing statement or statements relating to the Purchased Assets (including a financing statement describing the collateral as "all assets of the debtor" or such other super-generic description thereof as Buyer may determine) without Seller's signature thereon as Buyer, at its option, may deem appropriate. Seller hereby appoints Buyer as Seller's agent and attorney in fact to file any such financing statement or statements in Seller's name and to perform all other acts which Buyer deems appropriate to perfect and preserve its ownership interest in and/or the security interest granted hereby, if applicable, and to protect, preserve and realize upon the Purchased Assets in accordance with the terms of this Agreement and the other Repurchase Documents, including, but not limited to, the right to endorse notes, complete blanks in documents, transfer servicing (including, but not limited, to sending "good-bye letters" to any Underlying Obligor with respect to Purchased Assets which are Whole Loans, each to be in a form acceptable to Buyer), and sign assignments on behalf of such Seller as its agent and attorney in fact. This agency and power of attorney is coupled with an interest and is irrevocable without Buyer's consent. Seller shall pay the filing costs for any financing statement or statements prepared pursuant to this Section 18.18. In addition, Seller shall execute and deliver to Buyer a power of attorney in the form and substance of Exhibit J hereto ("Power of Attorney").

Section 18.19 Periodic Due Diligence Review. Buyer may perform continuing due diligence reviews with respect to any or all of the Purchased Assets, Seller and Affiliates of Seller, including ordering new third party reports, for purposes of, among other things, verifying compliance with the representations, warranties, covenants, agreements, duties, obligations and specifications made under the Repurchase Documents or otherwise. Upon reasonable prior notice to Seller, unless a Default or Event of Default exists, in which case no notice is required, Buyer or its representatives may during normal business hours inspect any properties and examine, inspect and make copies of the books and records of Seller and Affiliates of Seller, the Purchased Asset Documents and the Servicing Files. Seller shall make available to Buyer one or more knowledgeable financial or accounting officers and representatives of the independent certified public accountants of Seller for the purpose of answering questions of Buyer concerning any of the foregoing. Seller shall cause Servicer to cooperate with Buyer by permitting Buyer to conduct due diligence reviews of the Servicing Files. Buyer may purchase Purchased Assets from Seller based solely on the information provided by Seller to Buyer in the Underwriting Package and the representations, warranties, duties, obligations and covenants contained herein, and Buyer may at any time conduct a partial or complete due diligence review on some or all of the Purchased Assets, including ordering new credit reports and new Appraisals (provided that, other than in connection with Buyer's review of any Material Modification, any proposed Future

Funding Transaction or any other release of collateral relating to a Purchased Asset, no more than one (1) Appraisal per Purchased Asset, in any twelve (12) month period, shall be ordered at Seller's cost and expense) on the Mortgaged Properties and otherwise re-generating the information used to originate and underwrite such Purchased Assets. Buyer may underwrite such Purchased Assets itself or engage a mutually acceptable third-party underwriter to do so.

Section 18.20 Time of the Essence. Time is of the essence with respect to all obligations, duties, covenants, agreements, notices or actions or inactions of the parties under the Repurchase Documents.

Section 18.21 PATRIOT Act Notice. Buyer hereby notifies Seller that Buyer is required by the PATRIOT Act to obtain, verify and record information that identifies Seller.

Section 18.22 Successors and Assigns. Subject to the foregoing, the Repurchase Documents and any Transactions shall be binding upon and shall inure to the benefit of the Parties and their successors and permitted assigns.

Section 18.23 Acknowledgement of Anti-Predatory Lending Policies. Seller and Buyer each have in place internal policies and procedures that expressly prohibit their purchase of any high cost mortgage loan.

Section 18.24 Joint and Several Repurchase Obligations.

(a) At all times when there is more than one Seller under this Agreement, each Seller hereby acknowledges and agrees that (i) each Seller shall be jointly and severally liable to Buyer to the maximum extent permitted by Requirements of Law for all Repurchase Obligations, (ii) the liability of each Seller (A) shall be absolute and unconditional and shall remain in full force and effect (or be reinstated) until all Repurchase Obligations shall have been paid in full and the expiration of any applicable preference or similar period pursuant to any Insolvency Law, or at law or in equity, without any claim having been made before the expiration of such period asserting an interest in all or any part of any payment(s) received by Buyer, and (B) until such payment has been made, shall not be discharged, affected, modified or impaired on the occurrence from time to time of any event, including any of the following, whether or not with notice to or the consent of each Seller, (1) the waiver, compromise, settlement, release, modification, supplementation, termination or amendment (including any extension or postponement of the time for payment or performance or renewal or refinancing) of any of the Repurchase Obligations or Repurchase Documents, (2) the failure to give notice to each Seller of the occurrence of an Event of Default, (3) the release, substitution or exchange by Buyer of any Purchased Asset (whether with or without consideration) or the acceptance by Buyer of any additional collateral or the availability or claimed availability of any other collateral or source of repayment or any nonperfection or other impairment of collateral, (4) the release of any Person primarily or secondarily liable for all or any part of the Repurchase Obligations, whether by Buyer or in connection with any Insolvency Proceeding affecting any Seller or any other Person who, or any of whose property, shall at the time in question be obligated in respect of the Repurchase Obligations or any part thereof, (5) the sale, exchange, waiver, surrender or release of any Purchased Asset, guarantee or other collateral by Buyer, (6) the failure of Buyer to protect, secure, perfect or insure any Lien at any time held by Buyer as security for amounts owed by Sellers, or (7) to the extent permitted by Requirements of Law, any other event, occurrence, action or circumstance that would, in the absence of this Section 18.25, result in the release or discharge of any or all of Sellers from the performance or observance of any Repurchase Obligation, (iii) Buyer shall not be required first to initiate any suit or to exhaust its remedies against any Seller or any other Person to become liable, or against any of the Purchased Assets, in order to enforce the Repurchase Documents and each Seller expressly agrees that, notwithstanding the occurrence of any of the foregoing, each Seller shall be and remain directly and primarily liable for all sums due under any of the Repurchase Documents, (iv) when making any demand hereunder against any Seller or any of the Purchased Assets, Buyer may, but shall be under no obligation to, make a similar demand on any other Seller, or otherwise pursue such rights and remedies as it may have against any Seller or any other Person or against any collateral security or guarantee related thereto or any right of offset with respect thereto, and any failure by Buyer to make any such demand, file suit or otherwise pursue such other rights or remedies or to collect any payments from any other Seller or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right offset, or any release of any Seller or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve any Seller in a respect of which a demand or collection is not made or Sellers not so released of their obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of Buyer against Sellers (as used herein, the term "demand" shall include the commencement and continuation of legal proceedings), (v) on disposition by Buyer of any property encumbered by any Purchased Assets, each Seller shall be and shall remain jointly and severally liable for any deficiency, (vi) each Seller waives (A) any and all notice of the creation, renewal, extension or accrual of any amounts at any time owing to Buyer by any other Seller under the Repurchase Documents and notice of or proof of reliance by Buyer upon any Seller or acceptance of the obligations of any Seller under this Section 18.25, and all such amounts, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the obligations of Sellers under this Agreement, and all dealings between Sellers, on the one hand, and Buyer, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the obligations of Sellers under this Agreement, and (B) diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon any Seller with respect to any amounts at any time owing to Buyer by any Seller under the Repurchase Documents, and (vii) each Seller shall continue to be liable under this Section 18.25 without regard to (A) the validity, regularity or enforceability of any other provision of this Agreement or any other Repurchase Document, any amounts at any time owing to Buyer by any Seller under the Repurchase Documents, or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by Buyer, (B) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by any Seller against Buyer, or (iii) any other circumstance whatsoever (with or without notice to or knowledge of any Seller) which constitutes, or might be construed to constitute, an equitable or legal discharge of any Seller for any amounts owing to Buyer by any Seller under the Repurchase Documents, or of Sellers under this Agreement, in bankruptcy or in any other instance.

(b) Each Seller shall remain fully obligated under this Agreement notwithstanding that, without any reservation of rights against any Seller and without notice to or further assent by any Seller, any demand by Buyer for payment of any amounts owing to Buyer by any other Seller under the Repurchase Documents may be rescinded by Buyer and any the payment of any such amounts may be continued, and the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by Buyer (including any extension or postponement of the time for payment or performance or renewal or refinancing of any Repurchase Obligation), and this Agreement and the other Repurchase Documents and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, in accordance with its terms, as Buyer may deem advisable from time to time, and any collateral security, guarantee or right of offset at any time held by Buyer for the payment of amounts owing to Buyer by Sellers under the Repurchase Documents may be sold, exchanged, waived, surrendered or released. Buyer shall not have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for amounts owing to Buyer by Sellers under the Repurchase Documents, or any property subject thereto.

(c) To the extent that any Seller (the "Paying Seller") pays more than its proportionate share of any payment made hereunder, the Paying Seller shall be entitled to seek and receive contribution from and against any other Seller that has not paid its proportionate share; provided, that the provisions of this Section 18.25 shall not limit the duties, covenants, agreements, obligations and liabilities of any Seller to Buyer, and, notwithstanding any payment or payments made by the Paying Seller hereunder or any setoff or application of funds of the Paying Seller by Buyer, the Paying Seller shall not be entitled to be subrogated to any of the rights of Buyer against any other Seller or any collateral security or guarantee or right of setoff held by Buyer, nor shall the Paying Seller seek or be entitled to seek any contribution or reimbursement from any other Seller in respect of payments made by the Paying Seller hereunder, until all Repurchase Obligations are paid in full. If any amount shall be paid to the Paying Seller on account of such subrogation rights at any time when all such amounts shall not have been paid in full, such amount shall be held by the Paying Seller in trust for Buyer, segregated from other funds of the Paying Seller, and shall, forthwith upon receipt by the Paying Seller, be turned over to Buyer in the exact form received by the Paying Seller (duly indorsed by the Paying Seller to Buyer, if required), to be applied against the Repurchase Obligations, whether matured or unmatured, in such order as Buyer may determine.

(d) The Repurchase Obligations are full recourse obligations to each Seller, and each Seller hereby forever waives, demises, acquits and discharges any and all defenses, and shall at no time assert or allege any defense, to the contrary.

(e) Anything herein or in any other Repurchase Document to the contrary notwithstanding, the maximum liability of any Seller hereunder in respect of the liabilities of the other Sellers under this Agreement and the other Repurchase Documents shall in no event exceed the amount which can be guaranteed by each Seller under applicable federal and state laws relating to the insolvency of debtors.

Section 18.25 Recognition of the U.S. Special Resolution Regimes

(a) In the event that Buyer becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from Buyer of this Agreement and/or the Repurchase Documents, and any interest and obligation in or under this Agreement and/or the Repurchase Documents, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement and/or the Repurchase Documents, 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 Buyer or a BHC Act Affiliate of Buyer becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement and/or the Repurchase Documents that may be exercised against Buyer 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 and/or the Repurchase Documents were governed by the laws of the United States or a state of the United States.

[ONE OR MORE UNNUMBERED SIGNATURE PAGES FOLLOW]

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed as of the date first above written.

SELLER:

~~CLNC~~BRIGHTSPIRE CREDIT 8, LLC, a
Delaware limited liability company

By: ___________________________________
Name:
Title:

BUYER:

WELLS FARGO BANK, N.A., a national banking association

By: ____________________________________
Its:
Title

**EXHIBIT B**

**FORM OF CONFIRMATION**

[ ] [ ], 20[ ]

Wells Fargo Bank, National Association
One Wells Fargo Center
301 South College Street
MAC D1053-125, 12th Floor
Charlotte, North Carolina 28202

Attention: Karen Whittlesey

Re: Master Repurchase and Securities Contract dated as of November 2, 2018, (the "Agreement") among BRIGHTSPIRE CREDIT 8, LLC ("Seller") and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Buyer")

Ladies and Gentlemen:

This is a Confirmation (as this and other terms used but not defined herein are defined in the Agreement) executed and delivered by Seller and Buyer pursuant to Section 3.01 of the Agreement. Seller and Buyer hereby confirm and agree that as of the Purchase Date and upon the other terms specified below, Seller shall sell and assign to Buyer, and Buyer shall purchase from Seller, all of Seller's right, title and interest in, to and under the Purchased Assets listed in Appendix 1 hereto.

Purchased Assets (including Class and Mortgaged Property): As described in Appendix 1 hereto

Property Type: As described in Appendix 1 hereto

Type: [multifamily, retail, office, industrial, hospitality or self-storage]

Market Value: $[________________________]

Applicable Benchmark [LIBOR Based Transaction]
(subject to Section 12.01 of the Agreement): [SOFR Based Transaction]

Applicable SOFR
(subject to Section 12.01 of the Agreement): [N/A] [SOFR Average] [Term SOFR]

Applicable Percentage: [_____]%

Floor: [_____]%

Maximum Applicable Percentage: [_____]%

Pricing Margin: [_____]%

Future Funding Amount (if applicable): $[________________________]

Purchased Asset Documents: As described in Appendix 1 hereto

Purchase Date: [ ] [ ], 20[ ]

Repurchase Date: [ ] [ ], 20[ ]

Purchase Price: $[________________________]

Maximum Purchase Price: $[________________________]

Seller's Wiring Instructions:[1] Bank Name: [______]
Routing #: [______]
SWIFT/BIC: [______]
Account #: [______]
Account Name: [____]
Reference: [______]

Seller hereby represents and warrants as of the date hereof that, except as otherwise disclosed by Seller to Buyer in writing, (a) no [Default or][2] Event of Default has occurred and is continuing and (b) Guarantor is in compliance with the financial covenants set forth in Section 9 of the Guarantee Agreement.

Seller hereby certifies as follows, on and as of the above Purchase Date with respect to each Purchased Asset described in this Confirmation:

1. All of the conditions precedent in Section 6.02 of the Agreement have been satisfied.

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[1] If inconsistent with the instructions in the Agreement.
[2] Insert if the Confirmation or amended Confirmation is being entered into on a Purchase Date, a Future Funding Date, an Additional Advance date or the date of reallocation of Margin Excess.

2. Except as specified in Appendix 2 hereto, Seller will make all of the representations and warranties contained in the Agreement applicable to the Class of such Asset (including Schedule 1 to the Agreement as applicable to the Class of such Asset) with respect to the Purchased Asset described in this Confirmation.

Seller:

BRIGHTSPIRE CREDIT 8, LLC, a Delaware limited liability company

By: _______________________________
Name:
Title:

Buyer:

Acknowledged and Agreed:

Wells Fargo Bank, National Association

By: _______________________________
Name:
Title:

## Appendix 1 to Confirmation

Description of Purchased Asset:

## Appendix 2 to Confirmation

[Description of any exceptions to representations and warranties made by Seller in the Confirmation]

**Exhibit 10.36**

# THIRD AMENDMENT TO GUARANTEE AGREEMENT

THIRD AMENDMENT TO GUARANTEE AGREEMENT, dated as of January 28, 2022 (this "Amendment"), by and between BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC (f/k/a Credit RE Operating Company, LLC), a Delaware limited liability company ("Guarantor"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Buyer"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Repurchase Agreement (as hereinafter defined).

## RECITALS

WHEREAS, Brightspire Credit 8, LLC (f/k/a CLNC Credit 8, LLC), a Delaware limited liability company ("Seller") and Buyer are parties to that certain Master Repurchase and Securities Contract, dated as of November 2, 2018 (as amended, modified and/or restated, the "Repurchase Agreement"), between Seller and Buyer;

WHEREAS, Guarantor guaranteed the obligations of Seller under the Repurchase Agreement and the other Transaction Documents pursuant to that certain Guarantee Agreement, dated as of November 2, 2018, as amended by that certain Amendment to Guarantee Agreement, dated as of May 7, 2020, as further amended by that certain Second Amendment to Guarantee Agreement, dated as of April 13, 2021 (as amended, modified and/or restated, the "Guarantee"), from Guarantor to Buyer; and

WHEREAS, Guarantor and Buyer wish to further amend and modify the Guarantee upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor and Buyer hereby agree that the Guarantee shall be amended and modified as follows:

1. Amendment of Guarantee.

(a) Guarantor and Buyer hereby agree that Section 1 of the Guarantee is hereby amended by inserting the following new defined term in correct alphabetical order:

"Third Amendment Effective Date": January 28, 2022.

(b) Guarantor and Buyer hereby agree that Section 9(b) of the Guarantee is hereby amended and restated in its entirety to read as follows:

(b) Minimum Tangible Net Worth. Guarantor's Consolidated Tangible Net Worth at any time shall not be less than the sum of (i) $1,112,000,000.00, plus (ii) seventy percent (70%) of the net cash proceeds received by Guarantor from and after the Third Amendment Effective Date (x) from any offering by Guarantor of its common equity and (y) from any offering by BrightSpire Capital, Inc. of its common equity to the extent such net cash proceeds are contributed to Guarantor, excluding any such net cash proceeds that are contributed to Guarantor within ninety (90) days of receipt of such net cash proceeds and applied to purchase, redeem or otherwise acquire Capital Stock issued by Guarantor (or any direct or indirect parent thereof).

2. Amendment of Transaction Documents. From and after the date hereof, all references in the Repurchase Agreement and the other Transaction Documents to the Guarantee shall be deemed to refer to the Guarantee as amended and modified by this Amendment and as same may be further amended, modified and/or restated.

3. [Reserved].

4. Representations and Warranties. On and as of the date first above written, Guarantor hereby represents and warrants to Buyer that (a) after giving effect to this Amendment, it is in compliance with all the terms and provisions set forth in the Guarantee on its part to be observed or performed, (b) after giving effect to this Amendment, no Default or Event of Default under Repurchase Documents has occurred and is continuing, and (c) after giving effect to this Amendment, the representations and warranties contained in Section 8 of the Guarantee are true and correct in all respects as though made on such date (except for any such representation or warranty that by its terms refers to a specific date other than the date first above written, in which case it shall be true and correct in all respects as of such other date).

5. Counterparts. This Amendment may be executed by each of the parties hereto in any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart thereof.

**6. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF.**

7. Expenses. Seller hereby acknowledges and agrees that Seller shall be responsible for all reasonable out-of-pocket costs and expenses of Buyer in connection with documenting and consummating the modifications contemplated by this Amendment, including, but not limited to, the reasonable fees and expenses of Buyer's external legal counsel.

8. No Novation, Effect of Amendment. The parties hereto have entered into this Amendment solely to amend the terms of the Guarantee and do not intend this Amendment or the transactions contemplated hereby to be, and this Amendment and the transactions contemplated hereby shall not be construed to be, a novation of any of the obligations owning by Seller, Guarantor or any of their respective affiliates (the "Repurchase Parties") under or in connection with the Repurchase Agreement or any of the other Repurchase Documents. It is the intention of each of the parties hereto that (i) the perfection and priority of all security interests securing the payment of the obligations of the Repurchase Parties under the Repurchase

Agreement are preserved and (ii) the liens and security interests granted under the Repurchase Agreement continue in full force and effect.

9. Reaffirmation of Guarantee. Guarantor acknowledges and agrees that, except as modified hereby, the Guarantee remains unmodified and in full force and effect and enforceable in accordance with its terms.

10. Repurchase Agreement, Guarantee and Transaction Documents in Full Force and Effect. Except as expressly amended hereby, Seller and Guarantor acknowledge and agree that all of the terms, covenants and conditions of the Repurchase Agreement and the Transaction Documents remain unmodified and in full force and effect and are hereby ratified and confirmed in all respects.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**GUARANTOR:**

**BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC**, a Delaware limited liability company

By: /s/ David A. Palamé
Name: David A. Palamé
Title: Vice President

**BUYER:**

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

By: /s/ Allen Lewis
Name: Allen Lewis
Title: Managing Director

[*Signature Page to Third Amendment to Guarantee*]

**ACKNOWLEDGED AND AGREED**
**AS OF THE DATE FIRST SET FORTH ABOVE:**

**SELLER:**

**BRIGHTSPIRE CREDIT 8, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

[*Signature Page to Third Amendment to Guarantee*]

**Exhibit 10.45**

# SIXTH OMNIBUS AMENDMENT

OMNIBUS AMENDMENT TO TRANSACTION DOCUMENTS, dated as of January 24, 2022 (this "Amendment"), by and between BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC, a Delaware limited liability company (formerly known as "CREDIT RE OPERATING COMPANY, LLC", "Guarantor"), and MORGAN STANLEY BANK, N.A., a national banking association ("Buyer"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Repurchase Agreement (as hereinafter defined).

## RECITALS

WHEREAS, MS Loan NT-I, LLC, MS Loan NT-II, LLC, BrightSpire Credit 1, LLC, BrightSpire Credit 2, LLC, BrightSpire Credit 1UK, LLC, and BrightSpire Credit 1EU, LLC, each a Delaware limited liability company (collectively, "Seller") and Buyer are parties to that certain Second Amended and Restated Master Repurchase and Securities Contract Agreement, dated as of April 23, 2019 (as amended, modified and/or restated, the "Repurchase Agreement"), between Seller and Buyer;

WHEREAS, Guarantor guaranteed the obligations of Seller under the Repurchase Agreement and the other Transaction Documents pursuant to that certain Amended and Restated Guaranty Agreement, dated as of April 20, 2018, as amended by that certain Fifth Omnibus Amendment, dated as of April 14, 2021 (as amended, modified and/or restated, the "Guaranty"), from Guarantor to Buyer; and

WHEREAS, Seller, Guarantor and Buyer wish to amend and modify the Repurchase Agreement and the Guaranty upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller, Guarantor and Buyer hereby agree that the Repurchase Agreement and the Guaranty shall be amended and modified as follows:

1. Amendment of Repurchase Agreement. Seller and Buyer hereby agree that the Repurchase Agreement shall be amended and modified as follows:

a. The provisions of the Repurchase Agreement are amended as set forth in Exhibit A attached hereto and hereby incorporated by reference as though set forth in full herein.

2. Amendment of Transaction Documents. From and after the date hereof, all references in the Repurchase Agreement and the other Transaction Documents to the Repurchase Agreement and the Guaranty shall be deemed to refer to the Repurchase Agreement and the Guaranty as amended and modified by this Amendment and as same may be further amended, modified and/or restated.

3. Reaffirmation of Representations and Warranties. Guarantor and Seller each hereby represents and warrants to Buyer that, as of the date hereof, (i) it has the power to execute, deliver and perform its respective obligations under this Amendment, (ii) this Amendment has been duly executed and delivered by it for good and valuable consideration, and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms subject to bankruptcy, insolvency, and other limitations on creditors' rights generally and to equitable principles, (iii) Seller is not in default under the Repurchase Agreement or any of the other Transaction Documents beyond any applicable notice and cure periods, and there are no defenses, offsets or counterclaims against Seller's obligations under the Repurchase Agreement or the other Transaction Documents, (iv) Guarantor is not in default under the Guaranty beyond any applicable notice and cure periods, and there are no defenses, offsets or counterclaims against its obligations under the Guaranty, and (v) neither the execution and delivery of this Amendment, nor the consummation by it of the transactions contemplated by this Amendment, nor compliance by it with the terms, conditions and provisions of this Amendment will conflict with or result in a breach of any of the terms, conditions or provisions of (A) its organizational documents, (B) any contractual obligation to which it is now a party or the rights under which have been assigned to it or the obligations under which have been assumed by it or to which its assets are subject or constitute a default thereunder, or result thereunder in the creation or imposition of any lien upon any of its assets, other than pursuant to this Amendment, (C) any judgment or order, writ, injunction, decree or demand of any court applicable to it, or (D) any applicable Requirement of Law, in the case of clauses (B)-(D) above, to the extent that such conflict or breach is reasonably likely to result in a Material Adverse Effect. Guarantor hereby represents and warrants to Buyer that all of the representations and warranties set forth in Article III of the Guaranty remain true and correct as of the date hereof.

4. Counterparts. This Amendment may be executed by each of the parties hereto in any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart thereof.

**5. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF.**

6. Expenses. Seller hereby acknowledges and agrees that Seller shall be responsible for all reasonable out-of-pocket costs and expenses of Buyer in connection with documenting and consummating the modifications contemplated by this Amendment, including, but not limited to, the reasonable fees and expenses of Buyer's external legal counsel.

7. Reaffirmation of Guaranty. Guarantor acknowledges and agrees that, except as modified hereby, the Guaranty remains unmodified and in full force and effect and enforceable in accordance with its terms.

8. Repurchase Agreement, Guaranty and Transaction Documents in Full Force and Effect. Except as expressly amended hereby, Seller and Guarantor acknowledge and agree that all of the terms, covenants and conditions of the Repurchase Agreement and the Transaction Documents remain unmodified and in full force and effect and are hereby ratified and confirmed in all respects.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

<u>BUYER</u>:

**MORGAN STANLEY BANK, N.A.**

By: <u>/s/ Anthony Preisano</u>
Name: Anthony Preisano
Title: Executive Director

[Signatures continue on the next page]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**GUARANTOR:**

**BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC**,

By: /s/ David A. Palamé
Name: David A. Palamé
Title: Vice President

**ACKNOWLEDGED AND AGREED**
**AS OF THE DATE FIRST SET FORTH ABOVE:**

**SELLER:**

**MS LOAN NT-I, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**MS LOAN NT-II, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 1, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 2, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 1EU, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 1UK, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**EXHIBIT A**

TERM SOFR REPLACEMENT PROVISIONS

***The following provisions shall be in effect with respect to any Transactions entered into by Buyer and Seller from and after January 1, 2022, and at Buyer's election in its reasonable discretion following prior written notice by Buyer to Seller, the following provisions shall be in effect with respect to any Transactions entered into prior to January 1, 2022 (it being agreed that any change or election made by Buyer in accordance with a regulatory directive or guidance shall be deemed reasonable).***

1. The following definitions in Section 2 of the Repurchase Agreement are hereby deleted in their entirety:

"LIBOR"; "Early Opt-In Election"

2. The following definitions in Section 2 of the Repurchase Agreement are hereby amended and restated in their entirety as follows:

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, any tenor for such Benchmark or payment period for price differential calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of a Pricing Period pursuant to this Agreement as of such date.

"Benchmark" means, initially, Term SOFR; provided that, if a Benchmark Transition Event and the Benchmark Replacement Date with respect thereto have occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent such Benchmark Replacement has replaced such Benchmark pursuant to Section 3(k).

"Benchmark Replacement" means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Buyer on the applicable Benchmark Replacement Date:

(1) the sum of: (a) either of (i) Compounded SOFR or (ii) Daily Simple SOFR, as selected by the Buyer to be the then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for the applicable loan market and (b) the applicable Benchmark Replacement Adjustment;

(3) the sum of: (a) the alternate rate of interest that has been selected or recommended by the Relevant Governmental Body as the replacement for the then-current Benchmark for the applicable Corresponding Tenor and (b) the Benchmark Replacement Adjustment; or

(4) the sum of: (a) the alternate rate of interest that has been selected by the Buyer as the replacement for the then-current Benchmark for the applicable Corresponding Tenor in accordance with any industry-accepted rate of interest as a replacement for the then-current Benchmark for U.S . dollar denominated secured financings or securitizations relating to the relevant asset class, as applicable at such time and (b) the Benchmark Replacement Adjustment;

provided that, in each case, the alternative selected shall be consistent with the alternative selected by the Buyer in its commercial real estate mortgage loan repurchase facilities with similarly situated counterparties. If at any time the Benchmark Replacement as determined pursuant to this definition would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement.

"Benchmark Replacement Adjustment" means the first alternative set forth in the order below that can be determined by Buyer as of the Benchmark Replacement Date:

(1) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected, endorsed or recommended by the Relevant Governmental Body for the applicable Unadjusted Benchmark Replacement; or

(2) the spread adjustment (which may be a positive or negative value or zero) that has been selected by the Buyer giving due consideration to any industry-accepted spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the then-current Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar denominated secured financing or securitization transactions relating to the relevant asset class, as applicable at such time;

provided that, in each case, the alternative selected shall be consistent with the alternative selected by the Buyer in its commercial real estate mortgage loan repurchase facilities with similarly situated counterparties.

"Benchmark Replacement Conforming Changes" means, with respect to the use or administration of Term SOFR or any Benchmark Replacement, any technical, administrative or operational changes (including but not limited to changes to the definition of "Business Day", the definition of "Pricing Period," timing and frequency of determining rates and making payments of price differential, timing of Transaction requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that, after consultation with Seller, the Buyer decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Buyer in a manner substantially consistent with market practice for repurchase facilities or similar structured finance arrangements involving counterparties of similar size, credit quality and market reputation as the Seller (or, if the Buyer decides that adoption of any portion of such market practice is not administratively feasible or if the Buyer determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Buyer determines is reasonably necessary in connection with the administration of this Agreement); provided that the technical, administrative or operational changes shall be consistent with the technical, administrative or operational changes selected by the Buyer in its commercial real estate mortgage loan repurchase facilities with similarly situated counterparties.

"Benchmark Replacement Date" means the earliest to occur of the following events with respect to the then-current Benchmark or if the then current Benchmark is Term SOFR, with respect to the Term SOFR Reference Rate:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the date of the public statement or publication of information referenced therein.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component)

or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Compounded SOFR" means the compounded average of SOFRs for the applicable Corresponding Tenor, with the rate, or methodology for this rate, and conventions for this rate (which, for example, may be compounded in arrears with a lookback and/or suspension period as a mechanism to determine the interest amount payable prior to the end of each Pricing Period or compounded in advance) being established by the Buyer in accordance with:

(1) the rate or methodology for this rate, and conventions for this rate selected or recommended by the Relevant Governmental Body for determining compounded SOFR; provided that:

(2) if, and to the extent that, the Buyer determines that Compounded SOFR cannot be determined in accordance with clause (1) above, then the rate, or methodology for this rate, and conventions for this rate that have been selected by the Buyer giving due consideration to any industry-accepted market practice for similar U.S. dollar denominated secured financing or securitization transactions relating to the relevant asset class, as applicable at such time.

"Corresponding Tenor" with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or a price differential payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

"Daily Simple SOFR" means, for any day, SOFR, with the conventions for this rate (which may include a lookback) being established by the Buyer in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for business loans at such times; provided that, if the Buyer decides that any such convention is not administratively feasible, then the Buyer may establish another convention in its reasonable discretion.

“Floor” means zero basis points (0.0%).

“Reference Time” with respect to any setting of the then-current Benchmark means (1) if such Benchmark is Term SOFR, the time set forth in the definition of Term SOFR, and (2) if such Benchmark not Term SOFR, the time determined by Buyer in accordance with the Benchmark Replacement Conforming Changes.

“Relevant Governmental Body” means the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

“Term SOFR” means, with respect to any advance of a Purchase Price or Future Advance Purchase for any day, the Term SOFR Reference Rate for a tenor comparable to the applicable Pricing Period on the day (such day, the “Term SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to the first day of such Pricing Period, as such rate is published by the Term SOFR Administrator for such day at 6:00 a.m. (New York City time); provided, however, that if as of 5:00 p.m. (New York City time) on any Term SOFR Determination Day the Term SOFR Reference Rate for the foregoing tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Term SOFR Determination Day; provided, further, that if Term SOFR determined as provided above shall be less than the Floor, then Term SOFR shall be deemed to be the Floor.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the Benchmark Replacement Adjustment with respect thereto.

3. The following definitions are hereby added to Section 2 of the Repurchase Agreement.

“Federal Funds Rate” means, for any day, an interest rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve Bank of New York arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations at approximately 10:00 a.m. (New York time) on such day on such transactions received by Buyer from three federal funds brokers of recognized standing selected by Buyer in its reasonable discretion.

"Term SOFR Administrator" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Buyer in its reasonable discretion).

"Term SOFR Reference Rate" means the forward-looking term rate based on SOFR.

"Term SOFR Determination Day" shall have the meaning set forth in the definition of Term SOFR in this Agreement.

"U.S. Government Securities Business Day" means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

4. Section 3(k) of the Repurchase Agreement is hereby deleted and the following is inserted in lieu thereof:

"(k) Notwithstanding anything to the contrary herein or in any other Transaction Document, if a Benchmark Transition Event and a Benchmark Replacement Date with respect thereto have occurred prior to the Reference Time in connection with any setting of the then-current Benchmark, then such Benchmark Replacement will replace the then-current Benchmark for all purposes under this Agreement and under any other Transaction Document in respect of such Benchmark setting and subsequent Benchmark settings without requiring any amendment to, or requiring any further action by or consent of any other party to, this Agreement or any other Transaction Document. Notwithstanding the foregoing, in the event that Buyer shall have determined (which determination shall be conclusive and binding upon Seller absent manifest error) that by reason of circumstances affecting the relevant market or otherwise, (i) adequate and reasonable means do not exist for ascertaining the applicable Benchmark, but a Benchmark Transition Event (as provided in the definition of Benchmark Transition Event as set forth herein) has not yet occurred or (ii) the Benchmark does not fairly and accurately reflect the costs to Buyer of effecting or maintaining the Transactions, then Buyer shall give written notice to Seller as soon as practicable thereafter. If such notice is given, the Pricing Rate with respect to all outstanding Transactions, until such notice has been withdrawn by Buyer, shall be a per annum rate equal to the sum of the Federal Funds Rate, *plus* 0.25%, *plus* the Applicable Spread.

5. Section 3(l) of the Repurchase Agreement is hereby deleted and the following is inserted in lieu thereof:

"(l) In connection with the implementation and administration of a Benchmark Replacement, Buyer will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Transaction Document, after consultation with Seller, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without requiring any further action by or consent of any other party to this Agreement or any other Transaction Document. Buyer will promptly notify Seller of (A) any occurrence of (i) a Benchmark Transition Event and (ii) the Benchmark Replacement Date with respect thereto, (B) the implementation of any Benchmark Replacement, and (C) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by Buyer pursuant to Section 3(k) or this Section 3(l), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in the reasonable discretion of Buyer and without consent from Seller or any other party to any other Transaction Document.

**Exhibit 10.46**

# SEVENTH OMNIBUS AMENDMENT

OMNIBUS AMENDMENT TO TRANSACTION DOCUMENTS, dated as of January 28, 2022 (this "Amendment"), by and between BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC, a Delaware limited liability company (formerly known as "CREDIT RE OPERATING COMPANY, LLC", "Guarantor"), and MORGAN STANLEY BANK, N.A., a national banking association ("Buyer"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Repurchase Agreement (as hereinafter defined).

## RECITALS

WHEREAS, MS Loan NT-I, LLC, MS Loan NT-II, LLC, BrightSpire Credit 1, LLC, BrightSpire Credit 2, LLC, BrightSpire Credit 1UK, LLC, and BrightSpire Credit 1EU, LLC, each a Delaware limited liability company (collectively, "Seller") and Buyer are parties to that certain Second Amended and Restated Master Repurchase and Securities Contract Agreement, dated as of April 23, 2019 (as amended, modified and/or restated, the "Repurchase Agreement"), between Seller and Buyer;

WHEREAS, Guarantor guaranteed the obligations of Seller under the Repurchase Agreement and the other Transaction Documents pursuant to that certain Amended and Restated Guaranty Agreement, dated as of April 20, 2018, as amended by that certain Fifth Omnibus Amendment, dated as of April 14, 2021 (as amended, modified and/or restated, the "Guaranty"), from Guarantor to Buyer; and

WHEREAS, Seller, Guarantor and Buyer wish to amend and modify the Repurchase Agreement and the Guaranty upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller, Guarantor and Buyer hereby agree that the Repurchase Agreement and the Guaranty shall be amended and modified as follows:

1. Amendment of Repurchase Agreement. Seller and Buyer hereby agree that the Repurchase Agreement shall be amended and modified with retroactive effect as follows:

a. The following defined terms are hereby deleted from Section 1 of the Repurchase Agreement and replaced with the following, respectively, in correct alphabetical order:

"Guarantor" shall mean BrightSpire Capital Operating Company, LLC, a Delaware limited liability company.

"Sponsor" shall mean BrightSpire Capital, Inc., a Maryland corporation.

b. Subsection (b) of the definition of "Financial Covenant Compliance Certificate" is hereby deleted in its entirety and replaced with the following:

(b) Minimum Tangible Net Worth. Consolidated Tangible Net Worth at any time shall not be less than the sum of (i) $1,112,000,000.00 plus (ii) seventy percent (70%) of the net cash proceeds thereafter received by the Guarantor (x) from any offering by the Guarantor of its common equity and (y) from any offering by the Sponsor of its common equity to the extent such net cash proceeds are contributed to the Guarantor, excluding any such net cash proceeds that are contributed to the Guarantor within ninety (90) days of receipt of such net cash proceeds and applied to purchase, redeem or otherwise acquire Capital Stock issued by the Guarantor (or any direct or indirect parent thereof).

2. Amendment of Guaranty. Guarantor and Buyer hereby agree that the Guaranty shall be amended and modified with retroactive effect as follows:

a. Section 4.7(a)(ii) of the Guaranty is hereby deleted in its entirety and replaced with the following:

(ii) Minimum Tangible Net Worth. Consolidated Tangible Net Worth at any time shall not be less than the sum of (i) $1,112,000,000.00 plus (ii) seventy percent (70%) of the net cash proceeds thereafter received by the Guarantor (x) from any offering by the Guarantor of its common equity and (y) from any offering by the Sponsor of its common equity to the extent such net cash proceeds are contributed to the Guarantor, excluding any such net cash proceeds that are contributed to the Guarantor within ninety (90) days of receipt of such net cash proceeds and applied to purchase, redeem or otherwise acquire Capital Stock issued by the Guarantor (or any direct or indirect parent thereof).

3. Amendment of Transaction Documents. From and after the date hereof, all references in the Repurchase Agreement and the other Transaction Documents to the Repurchase Agreement and the Guaranty shall be deemed to refer to the Repurchase Agreement and the Guaranty as amended and modified by this Amendment and as same may be further amended, modified and/or restated.

4. Reaffirmation of Representations and Warranties. Guarantor and Seller each hereby represents and warrants to Buyer that, as of the date hereof, (i) it has the power to execute, deliver and perform its respective obligations under this Amendment, (ii) this Amendment has been duly executed and delivered by it for good and valuable consideration, and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms subject to bankruptcy, insolvency, and other limitations on creditors' rights generally and to equitable principles, (iii) Seller is not in default under the Repurchase Agreement or any of the other Transaction Documents beyond any applicable notice and cure periods, and there are no defenses, offsets or counterclaims against Seller's obligations under the

Repurchase Agreement or the other Transaction Documents, (iv) Guarantor is not in default under the Guaranty beyond any applicable notice and cure periods, and there are no defenses, offsets or counterclaims against its obligations under the Guaranty, and (v) neither the execution and delivery of this Amendment, nor the consummation by it of the transactions contemplated by this Amendment, nor compliance by it with the terms, conditions and provisions of this Amendment will conflict with or result in a breach of any of the terms, conditions or provisions of (A) its organizational documents, (B) any contractual obligation to which it is now a party or the rights under which have been assigned to it or the obligations under which have been assumed by it or to which its assets are subject or constitute a default thereunder, or result thereunder in the creation or imposition of any lien upon any of its assets, other than pursuant to this Amendment, (C) any judgment or order, writ, injunction, decree or demand of any court applicable to it, or (D) any applicable Requirement of Law, in the case of clauses (B)-(D) above, to the extent that such conflict or breach is reasonably likely to result in a Material Adverse Effect. Guarantor hereby represents and warrants to Buyer that all of the representations and warranties set forth in Article III of the Guaranty remain true and correct as of the date hereof.

5. Counterparts. This Amendment may be executed by each of the parties hereto in any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart thereof.

**6. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF.**

7. Expenses. Seller hereby acknowledges and agrees that Seller shall be responsible for all reasonable out-of-pocket costs and expenses of Buyer in connection with documenting and consummating the modifications contemplated by this Amendment, including, but not limited to, the reasonable fees and expenses of Buyer’s external legal counsel.

8. Reaffirmation of Guaranty. Guarantor acknowledges and agrees that, except as modified hereby, the Guaranty remains unmodified and in full force and effect and enforceable in accordance with its terms.

9. Repurchase Agreement, Guaranty and Transaction Documents in Full Force and Effect. Except as expressly amended hereby, Seller and

Guarantor acknowledge and agree that all of the terms, covenants and conditions of the Repurchase Agreement and the Transaction Documents remain unmodified and in full force and effect and are hereby ratified and confirmed in all respects.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**BUYER:**

**MORGAN STANLEY BANK, N.A.**

By: /s/ Bill Bowman
Name: Bill Bowman
Title: Authorized Signatory

[Signatures continue on the next page]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**GUARANTOR:**

**BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC**,

By: /s/ David A. Palamé
Name: David A. Palamé
Title: Vice President

**ACKNOWLEDGED AND AGREED**
**AS OF THE DATE FIRST SET FORTH ABOVE:**

**SELLER:**

**MS LOAN NT-I, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**MS LOAN NT-II, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 1, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 2, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 1EU, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 1UK, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

# THIRD AMENDMENT TO GUARANTY

THIRD AMENDMENT TO GUARANTY, dated as of January 28, 2022 (this "Amendment"), by and between BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC, a Delaware limited liability company (formerly known as "CREDIT RE OPERATING COMPANY, LLC", "Guarantor"), and CITIBANK, N.A., a national banking association ("Buyer"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Repurchase Agreement (as hereinafter defined).

## RECITALS

WHEREAS, NSREIT CB Loan, LLC, CB Loan NT-II, LLC, BrightSpire Credit 3, LLC, BrightSpire Credit 4, LLC, BrightSpire Credit 3EU, LLC, and BrightSpire Credit 3UK, LLC, each a Delaware limited liability company (collectively, "Seller") and Buyer are parties to that certain Amended and Restated Master Repurchase Agreement, dated as of April 26, 2019 (as amended, modified and/or restated, the "Repurchase Agreement"), between Seller and Buyer;

WHEREAS, Guarantor guaranteed the obligations of Seller under the Repurchase Agreement and the other Transaction Documents pursuant to that certain Guaranty, dated as of April 23, 2018, as amended by that certain First Amendment to Guaranty, dated as of May 7, 2020, as further amended by that certain Second Amendment to Guaranty, dated as of April 14, 2021 (as amended, modified and/or restated, the "Guaranty"), from Guarantor to Buyer; and

WHEREAS, Guarantor and Buyer wish to amend and modify the Guaranty upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor and Buyer hereby agree that the Guaranty shall be amended and modified as follows:

1. Amendment of Guaranty. Guarantor and Buyer hereby agree that the Guaranty shall be amended and modified with retroactive effect as follows:

(a) Article V(l)(ii) of the Guaranty is hereby deleted in its entirety and replaced with the following:

(ii) Minimum Consolidated Tangible Net Worth. Consolidated Tangible Net Worth at any time shall not be less than the sum of (i) $1,112,000,000.00 and (ii) seventy percent (70%) of the net cash proceeds thereafter received by the Guarantor (x) from any offering by the Guarantor of its common equity and (y) from any offering by BrightSpire Capital, Inc. of its common equity to the extent such net cash proceeds are contributed to the Guarantor, excluding any such net cash proceeds that are contributed to the Guarantor within ninety (90) days of receipt of such net cash proceeds and applied to purchase, redeem or otherwise acquire Capital Stock issued by the Guarantor (or any direct or indirect parent thereof).

2. Amendment of Transaction Documents. From and after the date hereof, all references in the Repurchase Agreement and the other Transaction Documents to the Guaranty shall be deemed to refer to the Guaranty as amended and modified by this Amendment and as same may be further amended, modified and/or restated.

3. Reaffirmation of Representations and Warranties. Guarantor hereby represents and warrants to Buyer that, as of the date hereof, (i) it has the power to execute, deliver and perform its respective obligations under this Amendment, (ii) this Amendment has been duly executed and delivered by it for good and valuable consideration, and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms subject to bankruptcy, insolvency, and other limitations on creditors' rights generally and to equitable principles, and (iii) neither the execution and delivery of this Amendment, nor the consummation by it of the transactions contemplated by this Amendment, nor compliance by it with the terms, conditions and provisions of this Amendment will conflict with or result in a breach of any of the terms, conditions or provisions of (A) its organizational documents, (B) any contractual obligation to which it is now a party or the rights under which have been assigned to it or the obligations under which have been assumed by it or to which its assets are subject or constitute a default thereunder, or result thereunder in the creation or imposition of any lien upon any of its assets, other than pursuant to this Amendment, (C) any judgment or order, writ, injunction, decree or demand of any court applicable to it, or (D) any applicable Requirement of Law, in the case of clauses (B)-(D) above, to the extent that such conflict or breach is reasonably likely to result in a Material Adverse Effect. Guarantor hereby represents and warrants to Buyer that all of the representations and warranties set forth in Article IV of the Guaranty remain true and correct as of the date hereof.

4. Counterparts. This Amendment may be executed by each of the parties hereto in any number of separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart thereof.

**5. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF.**

6. Expenses. Seller hereby acknowledges and agrees that Seller shall be responsible for all reasonable out-of-pocket costs and expenses of Buyer in connection with documenting and consummating the modifications contemplated by this Amendment, including, but not limited to, the reasonable fees and expenses of Buyer's external legal counsel.

7. Reaffirmation of Guaranty. Guarantor acknowledges and agrees that, except as modified hereby, the Guaranty remains unmodified and in full force and effect and enforceable in accordance with its terms.

8. Repurchase Agreement, Guaranty and Transaction Documents in Full Force and Effect. Except as expressly amended hereby, Seller and Guarantor acknowledge and agree that all of the terms, covenants and conditions of the Repurchase Agreement and the

Transaction Documents remain unmodified and in full force and effect and are hereby ratified and confirmed in all respects.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

**GUARANTOR:**

**BRIGHTSPIRE CAPITAL OPERATING COMPANY, LLC**

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

[*BRSP/Citi* - *Signature Page to Third Amendment to Guaranty*]

**BUYER**:

**CITIBANK, N.A.**

By: /s/ Richard Schlenger_____________
Name: Richard Schlenger
Title: Authorized Signatory

**ACKNOWLEDGED AND AGREED**
**AS OF THE DATE FIRST SET FORTH ABOVE:**

**SELLER:**

**NSREIT CB LOAN, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**CB LOAN NT-II, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 3, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 4, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 3EU, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

**BRIGHTSPIRE CREDIT 3UK, LLC**,
a Delaware limited liability company

By: /s/ David A. Palamé ___________
Name: David A. Palamé
Title: Vice President

[*BRSP/Citi* - *Signature Page to Third Amendment to Guaranty*]

Exhibit 21.1

**BRIGHTSPIRE CAPITAL, INC.**
**LIST OF SIGNIFICANT SUBSIDIARIES**

| **Subsidiary Name** | **State or Jurisdiction of Formation** |
|---|---|
| BrightSpire Capital Advisors, LLC | Delaware |
| BrightSpire Capital Mortgage Corporation, LLC | Delaware |
| BrightSpire Capital Mortgage Parent, LLC | Delaware |
| BrightSpire Capital Mortgage Sub-REIT, LLC | Delaware |
| BrightSpire Capital Operating Company, LLC | Delaware |
| BrightSpire Capital RE Corporation, LLC | Delaware |
| BrightSpire Capital RE Holdco, LLC | Delaware |
| BrightSpire Capital US, LLC | Delaware |
| BRSP 2021-FL1 DRE, LLC | Delaware |
| BRSP 2021-FL1, Ltd. | Cayman Islands |
| Century Mezz NT-II, LLC | Delaware |
| CLNC 2019-FL1, DRE, LLC | Delaware |
| CLNC 2019-FL1, Ltd. | Cayman Islands |
| CLNC Alberts, LLC | Delaware |
| CLNC Fibonacci, LLC | Delaware |
| CLNC ML Vista Canyon, LLC | Delaware |
| ColCredit Oceanside, LLC | Delaware |
| ColFin Fair Austin Investor, LLC | Delaware |
| Mid-South Industrial Holdings NT-II, LLC | Delaware |
| NorthStar Real Estate Income Trust Operating Partnership, LLC | Delaware |
| NorthStar Real Estate Operating Partnership II, LLC | Delaware |

## Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

(1) Form S-3 No. 333-234178 of BrightSpire Capital, Inc.,
(2) Form S-3 No. 333-234181 of BrightSpire Capital, Inc., and
(3) Form S-8 No. 333-222812 pertaining to the BrightSpire Capital, Inc. 2018 Equity Incentive Plan;

of our reports dated February 22, 2022, with respect to the consolidated financial statements and schedules of BrightSpire Capital, Inc. and the effectiveness of internal control over financial reporting of BrightSpire Capital, Inc. included in this Annual Report (Form 10-K) of BrightSpire Capital, Inc. for the year ended December 31, 2021.

/s/ Ernst & Young LLP

New York, New York
February 22, 2022

**Exhibit 31.1**

**CERTIFICATION BY THE CHIEF EXECUTIVE OFFICER PURSUANT TO
17 CFR 240.13a-14(a)/15(d)-14(a),
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael J. Mazzei, certify that:

1. I have reviewed this Annual Report on Form 10-K of BrightSpire Capital, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ Michael J. Mazzei

**Michael J. Mazzei**
**Chief Executive Officer**

Date: February 22, 2022

**Exhibit 31.2**

**CERTIFICATION BY THE CHIEF FINANCIAL OFFICER PURSUANT TO
17 CFR 240.13a-14(a)/15(d)-14(a),
AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Frank V. Saracino, certify that:

1. I have reviewed this Annual Report on Form 10-K of BrightSpire Capital, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ Frank V. Saracino
**Frank V. Saracino**
**Chief Financial Officer**
Date: February 22, 2022

**Exhibit 32.1**

**CERTIFICATION BY THE CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-K of BrightSpire Capital, Inc. (the "Company") for the year ended December 31, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael J. Mazzei, as Chief Executive Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section §1350, as adopted pursuant to Section §906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Michael J. Mazzei

**Michael J. Mazzei**
***Chief Executive Officer***

Date: February 22, 2022

The foregoing certification is being furnished solely pursuant to 18 U.S.C §1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended or incorporated by reference in any registration statement of the Company filed under the Securities Act of 1933, as amended.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**Exhibit 32.2**

**CERTIFICATION BY THE CHIEF FINANCIAL OFFICER**
**PURSUANT TO 18 U.S.C. SECTION 1350,**
**AS ADOPTED PURSUANT TO**
**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-K of BrightSpire Capital, Inc. (the "Company") for the year ended December 31, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Frank V. Saracino, as Chief Financial Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section §1350, as adopted pursuant to Section §906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Frank V. Saracino
**Frank V. Saracino**
***Chief Financial Officer***
Date: February 22, 2022

The foregoing certification is being furnished solely pursuant to 18 U.S.C §1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended or incorporated by reference in any registration statement of the Company filed under the Securities Act of 1933, as amended.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.