

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

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended September 30, 2018

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 001-35151

AG MORTGAGE INVESTMENT TRUST, INC.

Maryland

(State or Other Jurisdiction of
Incorporation or Organization)

245 Park Avenue, 26th Floor
New York, New York

(Address of Principal Executive Offices)

27-5254382

(I.R.S. Employer
Identification No.)

10167

(Zip Code)

(212) 692-2000

(Registrant's Telephone Number, Including Area Code)

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted and posted pursuant to Rule 405 and 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, a 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 is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

As of October 23, 2018, there were 28,743,527 outstanding shares of common stock of AG Mortgage Investment Trust, Inc.

AG MORTGAGE INVESTMENT TRUST, INC.
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PART I

ITEM 1. FINANCIAL STATEMENTS

AG Mortgage Investment Trust, Inc. and Subsidiaries
Consolidated Balance Sheets (Unaudited)
(in thousands, except per share data)

	September 30, 2018	December 31, 2017
Assets		
Real estate securities, at fair value:		
Agency - \$1,728,405 and \$2,126,135 pledged as collateral, respectively	\$ 2,031,715	\$ 2,247,161
Non-Agency - \$693,696 and \$976,072 pledged as collateral, respectively	714,855	1,004,256
ABS - \$24,383 and \$30,833 pledged as collateral, respectively	37,544	40,958
CMBS - \$272,907 and \$211,180 pledged as collateral, respectively	286,049	220,169
Residential mortgage loans, at fair value	87,600	18,890
Commercial loans, at fair value	94,618	57,521
Single-family rental properties, net	140,059	—
Investments in debt and equity of affiliates	79,698	99,696
Excess mortgage servicing rights, at fair value	28,625	5,084
Cash and cash equivalents	30,341	15,200
Restricted cash	45,921	37,615
Interest receivable	12,823	12,607
Receivable on unsettled trades - \$274,677 and \$0 pledged as collateral, respectively	285,041	—
Receivable under reverse repurchase agreements	5,750	24,671
Derivative assets, at fair value	4,887	2,127
Other assets	4,737	2,490
Due from broker	4,526	850
Total Assets	<u>\$ 3,894,789</u>	<u>\$ 3,789,295</u>
Liabilities		
Financing arrangements, net	\$ 2,913,381	\$ 3,004,407
Securitized debt, at fair value	11,481	16,478
Obligation to return securities borrowed under reverse repurchase agreements, at fair value	5,730	24,379
Payable on unsettled trades	212,839	2,419
Interest payable	5,294	5,226
Derivative liabilities, at fair value	1,030	450
Dividend payable	14,369	13,392
Due to affiliates	4,073	4,258
Accrued expenses	5,457	790
Taxes payable	1,299	1,545
Due to broker	7,964	1,692
Total Liabilities	3,182,917	3,075,036
Commitments and Contingencies (Note 14)		
Stockholders' Equity		
Preferred stock - \$0.01 par value; 50,000 shares authorized:		
8.25% Series A Cumulative Redeemable Preferred Stock, 2,070 shares issued and outstanding (\$51,750 aggregate liquidation preference)	49,921	49,921
8.00% Series B Cumulative Redeemable Preferred Stock, 4,600 shares issued and outstanding (\$115,000 aggregate liquidation preference)	111,293	111,293
Common stock, par value \$0.01 per share; 450,000 shares of common stock authorized and 28,738 and 28,193 shares issued and outstanding at September 30, 2018 and December 31, 2017, respectively	287	282
Additional paid-in capital	595,310	585,530
Retained earnings/(deficit)	(44,939)	(32,767)
Total Stockholders' Equity	<u>711,872</u>	<u>714,259</u>
Total Liabilities & Stockholders' Equity	<u>\$ 3,894,789</u>	<u>\$ 3,789,295</u>

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

AG Mortgage Investment Trust, Inc. and Subsidiaries
Consolidated Statements of Operations (Unaudited)
(in thousands, except per share data)

	Three Months Ended September 30, 2018	Three Months Ended September 30, 2017	Nine Months Ended September 30, 2018	Nine Months Ended September 30, 2017
Net Interest Income				
Interest income	\$ 39,703	\$ 33,592	\$ 115,072	\$ 92,773
Interest expense	18,692	11,959	50,289	30,322
Total Net Interest Income	21,011	21,633	64,783	62,451
Other Income/(Loss)				
Net realized gain/(loss)	(14,204)	22	(37,103)	(12,527)
Net interest component of interest rate swaps	1,816	(2,147)	1,607	(5,615)
Unrealized gain/(loss) on real estate securities and loans, net	700	14,893	(36,032)	53,190
Unrealized gain/(loss) on derivative and other instruments, net	6,589	2,423	48,460	4,224
Rental income	794	—	794	—
Other income	1	2	21	34
Total Other Income/(Loss)	(4,304)	15,193	(22,253)	39,306
Expenses				
Management fee to affiliate	2,384	2,454	7,210	7,374
Other operating expenses	3,503	2,603	10,168	8,247
Equity based compensation to affiliate	66	61	211	226
Excise tax	375	375	1,125	1,125
Servicing fees	148	23	232	185
Property depreciation and amortization	494	—	494	—
Property operating and maintenance expenses	232	—	232	—
Property management fee	88	—	88	—
Total Expenses	7,290	5,516	19,760	17,157
Income/(loss) before equity in earnings/(loss) from affiliates	9,417	31,310	22,770	84,600
Equity in earnings/(loss) from affiliates	13,960	4,701	17,023	9,700
Net Income/(Loss)	23,377	36,011	39,793	94,300
Dividends on preferred stock	3,367	3,367	10,102	10,102
Net Income/(Loss) Available to Common Stockholders	\$ 20,010	\$ 32,644	\$ 29,691	\$ 84,198
Earnings/(Loss) Per Share of Common Stock				
Basic	\$ 0.70	\$ 1.17	\$ 1.05	\$ 3.03
Diluted	\$ 0.70	\$ 1.17	\$ 1.05	\$ 3.03
Weighted Average Number of Shares of Common Stock Outstanding				
Basic	28,422	27,841	28,274	27,756
Diluted	28,438	27,857	28,282	27,770

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

AG Mortgage Investment Trust, Inc. and Subsidiaries
Consolidated Statements of Stockholders' Equity (Unaudited)
(in thousands)

	Common Stock		8.25 % Series A Cumulative Redeemable Preferred Stock	8.00 % Series B Cumulative Redeemable Preferred Stock	Additional Paid-in Capital	Retained Earnings/(Deficit)	Total
	Shares	Amount					
Balance at January 1, 2017	27,700	\$ 277	\$ 49,921	\$ 111,293	\$ 576,276	\$ (81,891)	\$ 655,876
Net proceeds from issuance of common stock	461	5	—	—	8,714	—	8,719
Grant of restricted stock and amortization of equity based compensation	28	—	—	—	406	—	406
Common dividends declared	—	—	—	—	—	(42,573)	(42,573)
Preferred Series A dividends declared	—	—	—	—	—	(3,202)	(3,202)
Preferred Series B dividends declared	—	—	—	—	—	(6,900)	(6,900)
Net Income/(Loss)	—	—	—	—	—	94,300	94,300
Balance at September 30, 2017	28,189	\$ 282	\$ 49,921	\$ 111,293	\$ 585,396	\$ (40,266)	\$ 706,626
Balance at January 1, 2018	28,193	\$ 282	\$ 49,921	\$ 111,293	\$ 585,530	\$ (32,767)	\$ 714,259
Net proceeds from issuance of common stock	512	5	—	—	9,277	—	9,282
Grant of restricted stock and amortization of equity based compensation	33	—	—	—	503	—	503
Common dividends declared	—	—	—	—	—	(41,863)	(41,863)
Preferred Series A dividends declared	—	—	—	—	—	(3,202)	(3,202)
Preferred Series B dividends declared	—	—	—	—	—	(6,900)	(6,900)
Net Income/(Loss)	—	—	—	—	—	39,793	39,793
Balance at September 30, 2018	28,738	\$ 287	\$ 49,921	\$ 111,293	\$ 595,310	\$ (44,939)	\$ 711,872

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

AG Mortgage Investment Trust, Inc. and Subsidiaries
Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Nine Months Ended September 30, 2018	Nine Months Ended September 30, 2017
Cash Flows from Operating Activities		
Net income/(loss)	\$ 39,793	\$ 94,300
Adjustments to reconcile net income/(loss) to net cash provided by (used in) operating activities:		
Net amortization of premium	(1,644)	(3,528)
Net realized (gain)/loss	37,103	12,527
Unrealized (gains)/losses on real estate securities and loans, net	36,032	(53,190)
Unrealized (gains)/losses on derivative and other instruments, net	(48,460)	(4,224)
Property depreciation and amortization	494	—
Equity based compensation to affiliate	211	226
Equity based compensation expense	292	180
(Income)/loss from investments in debt and equity of affiliates in excess of distributions received	(10,542)	(6,781)
Change in operating assets/liabilities:		
Interest receivable	(597)	(3,230)
Other assets	(147)	70
Due from broker	(3,963)	(6)
Interest payable	4,350	7,730
Due to affiliates	(185)	410
Accrued expenses	4,642	(257)
Taxes payable	(247)	(541)
Net cash provided by (used in) operating activities	57,132	43,686
Cash Flows from Investing Activities		
Purchase of real estate securities	(1,568,919)	(1,572,650)
Purchase of residential mortgage loans	(105,450)	—
Purchase of commercial loans	(51,401)	(10,271)
Purchase of U.S. Treasury securities	(249,659)	—
Purchase of single-family rental properties	(140,553)	—
Purchase of excess mortgage servicing rights	(25,162)	(2,436)
Investments in debt and equity of affiliates	(54,718)	(14,861)
Proceeds from sales of real estate securities	1,516,411	467,286
Proceeds from sales of residential mortgage loans	33,527	13,761
Proceeds from sales of U.S. treasury securities	249,227	—
Principal repayments/return of basis on real estate securities and excess mortgage servicing rights	361,767	328,931
Principal repayments on commercial loans	14,522	13,478
Principal repayments on residential mortgage loans	3,030	5,872
Distribution received in excess of income from investments in debt and equity of affiliates	22,577	4,845
Net proceeds from/(payments made) on reverse repurchase agreements	18,952	22,681
Net proceeds from/(payments made) on sales of securities borrowed under reverse repurchase agreements	(18,266)	(22,413)
Net settlement of interest rate swaps and other instruments	24,273	(10,746)
Net settlement of TBAs	40	3,003
Cash flows provided by/(used in) other investing activities	559	3,375
Net cash provided by/(used in) investing activities	30,757	(770,145)
Cash Flows from Financing Activities		
Net proceeds from issuance of common stock	9,282	8,730
Deferred financing costs paid	(1,013)	—
Borrowings under financing arrangements	40,760,112	26,155,914
Repayments of financing arrangements	(40,816,403)	(25,362,642)
Repayments of loan participation	—	(1,800)
Net collateral received from/(paid to) derivative counterparty	34,252	(281)
Net collateral received from/(paid to) repurchase counterparty	315	(322)
Dividends paid on common stock	(40,885)	(39,521)

Dividends paid on preferred stock	(10,102)	(10,102)
Net cash provided by/(used in) financing activities	(64,442)	749,976
Net change in cash, cash equivalents and restricted cash	23,447	23,517
Cash, cash equivalents, and restricted cash, Beginning of Period	52,815	79,053
Cash, cash equivalents, and restricted cash, End of Period	\$ 76,262	\$ 102,570

Supplemental disclosure of cash flow information:

Cash paid for interest on financing arrangements	\$ 48,894	\$ 26,763
Cash paid for excise and income taxes	\$ 1,389	\$ 1,733

Supplemental disclosure of non-cash financing and investing activities:

Principal repayments on real estate securities not yet received	\$ 447	\$ 480
Common stock dividends declared but not paid	\$ 14,369	\$ 16,209
Decrease in securitized debt	\$ 4,952	\$ 4,311
Transfer from residential mortgage loans to other assets	\$ 1,170	\$ 2,306
Transfer from non-agency to investments in debt and equity of affiliates	\$ 44,970	\$ —
Transfer from other assets to investments in debt and equity of affiliates	\$ 242	\$ —
Transfer from investments in debt and equity of affiliates to CMBS	\$ 65,425	\$ —
Transfer from financing arrangements to investments in debt and equity of affiliates	\$ 33,720	\$ —

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the consolidated balance sheets that sum to the total of the same such amounts shown in the consolidated statements of cash flows:

	September 30, 2018	September 30, 2017
Cash and cash equivalents	\$ 30,341	\$ 61,716
Restricted cash	45,921	40,854
Total cash, cash equivalents and restricted cash shown in the consolidated statements of cash flows	\$ 76,262	\$ 102,570

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

AG Mortgage Investment Trust Inc. and Subsidiaries
Notes to Consolidated Financial Statements (Unaudited)
September 30, 2018

1. Organization

AG Mortgage Investment Trust, Inc. (the “Company”) was incorporated in the state of Maryland on March 1, 2011. The Company is focused on investing in, acquiring and managing a diversified portfolio of residential mortgage-backed securities, or RMBS, issued or guaranteed by a U.S. government-sponsored entity such as Fannie Mae or Freddie Mac (collectively, “GSEs”), or any agency of the U.S. Government such as Ginnie Mae (collectively, “Agency RMBS”) and other real estate-related securities and financial assets, including Non-Agency RMBS, ABS, CMBS, excess mortgage servicing rights (“Excess MSRs”), loans, and single-family rental properties, each as described below.

Non-Agency RMBS represent fixed- and floating-rate RMBS issued by entities or organizations other than a GSE or agency of the U.S. government, including investment grade (AAA through BBB) and non-investment grade classes (BB and below). The mortgage loan collateral for Non-Agency RMBS consists of residential mortgage loans that do not generally conform to underwriting guidelines issued by U.S. government agencies or U.S. government-sponsored entities.

Asset Backed Securities (“ABS”) are securitized investments for which the underlying assets are diverse, not only representing real estate related assets.

Commercial Mortgage Backed Securities (“CMBS”) represent investments of fixed- and floating-rate CMBS, including investment grade (AAA through BBB) and non-investment grade classes (BB and below), secured by, or evidencing an ownership interest in, a single commercial mortgage loan or a pool of commercial mortgage loans.

Collectively, the Company refers to Agency RMBS, Non-Agency RMBS, ABS and CMBS asset types as “real estate securities” or “securities.”

Commercial loans are secured by an interest in commercial real estate and represent a contractual right to receive money on demand or on fixed or determinable dates. Residential mortgage loans refer to performing, re-performing and non-performing loans secured by a first lien mortgage on residential mortgaged property located in any of the 50 states of the United States or in the District of Columbia. The Company refers to its residential and commercial mortgage loans as “mortgage loans” or “loans.”

Single-family rental properties represent equity interests in residential properties held for the purpose of owning, leasing, and operating as single-family rental properties.

The Company is externally managed by AG REIT Management, LLC, a Delaware limited liability company (the “Manager”), a wholly-owned subsidiary of Angelo, Gordon & Co., L.P. (“Angelo Gordon”), a privately-held, SEC-registered investment adviser, pursuant to a management agreement. The Manager, pursuant to a delegation agreement dated as of June 29, 2011, has delegated to Angelo Gordon the overall responsibility of its day-to-day duties and obligations arising under the management agreement.

The Company conducts its operations to qualify and be taxed as a real estate investment trust (“REIT”) under the Internal Revenue Code of 1986, as amended (the “Code”).

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

2. Summary of significant accounting policies

The accompanying unaudited consolidated financial statements and related notes have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America (“GAAP”) for interim financial reporting and the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Certain prior period amounts have been reclassified to conform to the current period’s presentation. In the opinion of management, all adjustments considered necessary for a fair statement of the Company’s financial position, results of operations and cash flows have been included for the interim period and are of a normal and recurring nature. The operating results presented for interim periods are not necessarily indicative of the results that may be expected for any other interim period or for the entire year.

Cash and cash equivalents

Cash is comprised of cash on deposit with financial institutions. The Company classifies highly liquid investments with original maturities of three months or less from the date of purchase as cash equivalents. Cash equivalents includes cash invested in money market funds. As of September 30, 2018, the Company held \$14.7 million of cash equivalents. As of December 31, 2017, the Company held no cash equivalents. The Company places its cash with high credit quality institutions to minimize credit risk exposure. Cash pledged to the Company as collateral is unrestricted in use and, accordingly, is included as a component of “Cash and cash equivalents” on the consolidated balance sheets. Any cash held by the Company as collateral is included in the “Due to broker” line item on the consolidated balance sheets and in cash flows from financing activities on the consolidated statement of cash flows. Due to broker does not include variation margin received on centrally cleared derivatives. See Note 9 for more detail. Any cash due to the Company in the form of principal payments is included in the “Due from broker” line item on the consolidated balance sheets and in cash flows from operating activities on the consolidated statement of cash flows.

Restricted cash

Restricted cash includes cash pledged as collateral for clearing and executing trades, derivatives, financing arrangements and security deposits. Restricted cash is not available to the Company for general corporate purposes. As of September 30, 2018, the Company held \$1.2 million of restricted cash related to security deposits. As of December 31, 2017, the Company held no restricted cash related to security deposits. Restricted cash may be returned to the Company when the related collateral requirements are exceeded or at the maturity of the derivative or financing arrangement. Restricted cash is carried at cost, which approximates fair value. Restricted cash does not include variation margin pledged on centrally cleared derivatives. See Note 9 for more detail.

Offering costs

The Company has incurred offering costs in connection with common stock offerings and registration statements. Where applicable, the offering costs were paid out of the proceeds of the respective offerings. Offering costs in connection with common stock offerings and costs in connection with registration statements have been accounted for as a reduction of additional paid-in capital.

Use of estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results may differ from those estimates.

Earnings/(Loss) per share

In accordance with the provisions of Accounting Standards Codification (“ASC”) 260, “Earnings per Share,” the Company calculates basic income/(loss) per share by dividing net income/(loss) available to common stockholders for the period by weighted-average shares of the Company’s common stock outstanding for that period. Diluted income per share takes into account the effect of dilutive instruments, such as stock options, warrants, unvested restricted stock and unvested restricted stock units but uses the average share price for the period in determining the number of incremental shares that are to be added to the weighted-average number of shares outstanding. In periods in which the Company records a loss, potentially dilutive securities are excluded from the diluted loss per share calculation, as their effect on loss per share is anti-dilutive.

Valuation of financial instruments

The fair value of the financial instruments that the Company records at fair value will be determined by the Manager, subject to oversight of the Company’s board of directors, and in accordance with ASC 820, “Fair Value Measurements and Disclosures.” When possible, the Company determines fair value using independent data sources. ASC 820 establishes a hierarchy that prioritizes the inputs to valuation techniques giving the highest priority to readily available unadjusted quoted prices in active markets for identical assets (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements) when market prices are not readily available or reliable.

The three levels of the hierarchy under ASC 820 are described below:

- Level 1 – Quoted prices in active markets for identical assets or liabilities.
- Level 2 – Prices determined using other significant observable inputs. These may include quoted prices for similar securities, interest rates, prepayment speeds, credit risk and others.

AG Mortgage Investment Trust Inc. and Subsidiaries
Notes to Consolidated Financial Statements (Unaudited)
September 30, 2018

- Level 3 – Prices determined using significant unobservable inputs. In situations where quoted prices or observable inputs are unavailable (for example, when there is little or no market activity for an investment at the end of the period), unobservable inputs may be used. Unobservable inputs reflect the Company’s assumptions about the factors that market participants would use in pricing an asset or liability, and would be based on the best information available.

Transfers between levels are assumed to occur at the beginning of the reporting period.

Accounting for real estate securities

Investments in real estate securities are recorded in accordance with ASC 320-10, “Investments – Debt and Equity Securities,” ASC 325-40, “Beneficial Interests in Securitized Financial Assets,” or ASC 310-30, “Loans and Debt Securities Acquired with Deteriorated Credit Quality.” The Company has chosen to make a fair value election pursuant to ASC 825, “Financial Instruments” for its real estate securities portfolio. Real estate securities are recorded at fair market value on the consolidated balance sheets and the periodic change in fair market value is recorded in current period earnings on the consolidated statement of operations as a component of “Unrealized gain/(loss) on real estate securities and loans, net.” Real estate securities acquired through securitizations are shown in the line item “Purchase of real estate securities” on the consolidated statement of cash flows.

These investments meet the requirements to be classified as available for sale under ASC 320-10-25 which requires the securities to be carried at fair value on the consolidated balance sheets with changes in fair value recorded to other comprehensive income, a component of stockholders’ equity. Electing the fair value option allows the Company to record changes in fair value in the consolidated statement of operations, which, in management’s view, more appropriately reflects the results of operations for a particular reporting period as all securities activities will be recorded in a similar manner.

When the Company purchases securities with evidence of credit deterioration since origination, it will analyze the securities to determine if the guidance found in ASC 310-30 is applicable.

The Company accounts for its securities under ASC 310 and ASC 325 and evaluates securities for other-than-temporary impairment (“OTTI”) on at least a quarterly basis. The determination of whether a security is other-than-temporarily impaired involves judgments and assumptions based on subjective and objective factors. When the fair value of a real estate security is less than its amortized cost at the balance sheet date, the security is considered impaired, and the impairment is designated as either “temporary” or “other-than-temporary.”

When a real estate security is impaired, an OTTI is considered to have occurred if (i) the Company intends to sell the security (i.e., a decision has been made as of the reporting date) or (ii) it is more likely than not that the Company will be required to sell the security before recovery of its amortized cost basis. If the Company intends to sell the security or if it is more likely than not that the Company will be required to sell the real estate security before recovery of its amortized cost basis, the entire amount of the impairment loss, if any, is recognized in earnings as a realized loss and the cost basis of the security is adjusted to its fair value. Additionally for securities accounted for under ASC 325-40 an OTTI is deemed to have occurred when there is an adverse change in the expected cash flows to be received and the fair value of the security is less than its carrying amount. In determining whether an adverse change in cash flows occurred, the present value of the remaining cash flows, as estimated at the initial transaction date (or the last date previously revised), is compared to the present value of the expected cash flows at the current reporting date. The estimated cash flows reflect those a “market participant” would use and include observations of current information and events, and assumptions related to fluctuations in interest rates, prepayment speeds and the timing and amount of potential credit losses. Cash flows are discounted at a rate equal to the current yield used to accrete interest income. Any resulting OTTI adjustments are reflected in the “Net realized gain/(loss)” line item on the consolidated statement of operations.

The determination as to whether an OTTI exists is subjective, given that such determination is based on information available at the time of assessment as well as the Company’s estimate of the future performance and cash flow projections for the individual security. As a result, the timing and amount of an OTTI constitutes an accounting estimate that may change materially over time.

Increases in interest income may be recognized on a security on which the Company previously recorded an OTTI charge if the performance of such security subsequently improves.

Any remaining unrealized losses on securities at September 30, 2018 do not represent other than temporary impairment as the Company has the ability and intent to hold the securities to maturity or for a period of time sufficient for a forecasted market price recovery up to or above the amortized cost of the investment, and the Company is not required to sell the security for regulatory

AG Mortgage Investment Trust Inc. and Subsidiaries
Notes to Consolidated Financial Statements (Unaudited)
September 30, 2018

or other reasons. In addition, any unrealized losses on the Company's Agency RMBS accounted for under ASC 320 are not due to credit losses given their explicit guarantee of principal and interest by the GSEs, but rather are due to changes in interest rates and prepayment expectations. See Note 3 for a summary of OTTI charges recorded.

Sales of securities are driven by the Manager's portfolio management process. The Manager seeks to mitigate risks including those associated with prepayments, defaults, severities, amongst others and will opportunistically rotate the portfolio into securities with more favorable attributes. Strategies may also be employed to manage net capital gains, which need to be distributed for tax purposes.

Realized gains or losses on sales of securities, loans and derivatives are included in the "Net realized gain/(loss)" line item on the consolidated statement of operations. The cost of positions sold is calculated using a first in, first out, or FIFO, basis. Realized gains and losses are recorded in earnings at the time of disposition.

Accounting for residential and commercial mortgage loans

Investments in mortgage loans are recorded in accordance with ASC 310-10, "Receivables." At purchase, the Company may aggregate its mortgage loans into pools based on common risk characteristics. Once a pool of loans is assembled, its composition is maintained. The Company has chosen to make a fair value election pursuant to ASC 825 for its mortgage loan portfolio. Loans are recorded at fair market value on the consolidated balance sheets and any periodic change in fair market value will be recorded in current period earnings on the consolidated statement of operations as a component of "Unrealized gain/(loss) on real estate securities and loans, net."

The Company amortizes or accretes any premium or discount over the life of the loans utilizing the effective interest method. On at least a quarterly basis, the Company evaluates the collectability of both interest and principal on its loans to determine whether they are impaired. A loan or pool of loans is impaired when, based on current information and events, it is probable that the Company will be unable to collect all amounts due according to the existing contractual terms. Income recognition is suspended for loans at the earlier of the date at which payments become 90-days past due or when, in the opinion of management, a full recovery of income and principal becomes doubtful. When the ultimate collectability of the principal of an impaired loan or pool of loans is in doubt, all payments are applied to principal under the cost recovery method. When the ultimate collectability of the principal of an impaired loan is not in doubt, contractual interest is recorded as interest income when received, under the cash basis method until an accrual is resumed when the loan becomes contractually current and performance is demonstrated to be resumed. A loan is written off when it is no longer realizable and/or legally discharged.

When the Company purchases mortgage loans with evidence of credit deterioration since origination and it determines that it is probable it will not collect all contractual cash flows on those loans, it will apply the guidance found in ASC 310-30. Mortgage loans that are delinquent 60 or more days are considered non-performing.

The Company updates its estimate of the cash flows expected to be collected on at least a quarterly basis for loans accounted for under ASC 310-30. In estimating these cash flows, there are a number of assumptions that will be subject to uncertainties and contingencies including both the rate and timing of principal and interest receipts, and assumptions of prepayments, repurchases, defaults and liquidations. If based on the most current information and events it is probable that there is a significant increase in cash flows previously expected to be collected or if actual cash flows are significantly greater than cash flows previously expected, the Company will recognize these changes prospectively through an adjustment of the loan's yield over its remaining life. The Company will adjust the amount of accretable yield by reclassification from the nonaccretable difference. The adjustment is accounted for as a change in estimate in conformity with ASC 250, "Accounting Changes and Error Corrections" with the amount of periodic accretion adjusted over the remaining life of the loan. Decreases in cash flows expected to be collected from previously projected cash flows, which includes all cash flows originally expected to be collected by the investor plus any additional cash flows expected to be collected arising from changes in estimate after acquisition, may be recognized as impairment. Increases in interest income may be recognized on a loan on which the Company previously recorded an OTTI charge if the performance of such loan subsequently improves.

Investments in debt and equity of affiliates

The Company's unconsolidated ownership interests in affiliates are accounted for using the equity method. A majority of the Company's investments held through affiliated entities are comprised of real estate securities, Excess MSR, and loans, including loans held through Mortgage Acquisition Holding I LLC ("MATH") as discussed below. These types of investments are also held directly by the Company. These entities have chosen to make a fair value election on their financial instruments pursuant to ASC 825; as such, the Company will treat these investments consistently with this election. As of September 30, 2018 and December 31, 2017, these investments had a gross fair market value of \$164.9 million and \$88.3 million, respectively, net of any non-recourse securitized debt. During Q3 2018, the Company transferred certain of its CMBS from certain of its non-wholly owned subsidiaries to a consolidated entity. The Company executed this transfer in order to obtain financing on these real estate securities. As a result, there was a reclassification of these assets from the "Investments in debt and equity affiliates" line item to the "CMBS" line item on the Company's consolidated balance sheets. In addition, the Company has also shown this reclassification as a non-cash transfer from the "Investments in debt and equity affiliates" line item to the "CMBS" line item on its consolidated statements of cash flows.

On December 9, 2015, the Company, alongside private funds under the management of Angelo Gordon, through AG Arc LLC, one of the Company's indirect subsidiaries ("AG Arc"), formed Arc Home LLC ("Arc Home"). The Company has chosen to make a fair value election with respect to its investment in AG Arc pursuant to ASC 825. As of September 30, 2018 and December 31, 2017, the Company's interest in AG Arc had a fair market value of \$23.1 million and \$17.9 million, respectively. See Note 12 for additional detail.

On August 27, 2017, the Company, alongside private funds under the management of Angelo Gordon, formed MATH to conduct a residential mortgage investment strategy. MATH in turn sponsored the formation of an entity called Mortgage Acquisition Trust I LLC ("MATT") to purchase predominantly "Non-QMs," which are residential mortgage loans that are not deemed "qualified mortgage," or "QM," loans under the rules of the CFPB. Non-QMs are not eligible for delivery to Fannie Mae, Freddie Mac, or Ginnie Mae. MATT is expected to make an election to be treated as a real estate investment trust beginning with the 2018 tax year. In furtherance of this business, MATH's sponsoring funds have agreed to provide up to \$75.0 million of capital to MATH, of which the Company agreed to provide \$33.4 million for use in this mortgage investment business (net of any return of capital to the Company). The Company invests in MATT through MATH, and these indirect subsidiaries have chosen to make a fair value election on their respective financial instruments pursuant to ASC 825. As such, the Company will treat this investment consistently with this election. As of September 30, 2018, the Company had funded \$14.5 million of its total capital commitment and the Company's outstanding commitment was \$18.9 million (net of any return of capital to the Company).

The Company's investments in debt and equity of affiliates are recorded at fair market value on the consolidated balance sheets in the "Investments in debt and equity of affiliates" line item and periodic changes in fair market value are recorded in current period earnings on the consolidated statement of operations as a component of "Equity in earnings/(loss) from affiliates." Capital contributions, distributions and profits and losses of such entities are allocated in accordance with the terms of the applicable agreements.

Accounting for excess mortgage servicing rights

The Company has acquired the right to receive the excess servicing spread related to Excess MSR. The Company has chosen to make a fair value election pursuant to ASC 825 for Excess MSR. Excess MSR are recorded at fair market value on the consolidated balance sheets and any periodic change in fair market value is recorded in current period earnings on the consolidated statement of operations as a component of "Unrealized gain/(loss) on derivative and other instruments, net."

The Company amortizes or accretes any premium or discount over the life of the related Excess MSR utilizing the effective interest method. On at least a quarterly basis, the Company evaluates the collectability of interest of its Excess MSR to determine whether they are impaired. An Excess MSR is impaired when, based on current information and events, it is probable that the Company will be unable to collect all amounts due according to the existing contractual terms.

The Company updates its estimate of the cash flows expected to be collected on at least a quarterly basis for Excess MSR. In estimating these cash flows, there are a number of assumptions that will be subject to uncertainties and contingencies including both the rate and timing of interest receipts, and assumptions of prepayments, repurchases, defaults and liquidations. If there is a significant increase in expected cash flows over what was previously expected to be collected or if actual cash flows are significantly greater than cash flows previously expected, the Company will recognize these changes prospectively through an adjustment of the Excess MSR's yield over its remaining life. Decreases in cash flows expected to be collected from previously projected cash flows, which includes all cash flows originally expected to be collected by the investor plus any additional cash flows expected

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to be collected arising from changes in estimate after acquisition, may be recognized as impairment. Increases in interest income may be recognized on an Excess MSR on which the Company previously recorded an OTTI charge if the performance of such Excess MSR subsequently improves.

Accounting for single-family rental properties

Purchases of single-family rental properties are treated as asset acquisitions under ASU 2017-01, "Clarifying the Definition of a Business" and are recorded at their purchase price, which is allocated between land, building and improvements, and in-place lease intangibles (when a tenant is in place at the acquisition date) based upon their relative fair values at the date of acquisition. Fair value is determined in accordance with ASC 820 and is primarily based on unobservable data inputs. In making estimates of fair values for purposes of allocating the purchase price, the Company utilizes its own market knowledge and published market data and generally engages a third-party valuation specialist to assist management in the determination of fair value for purposes of allocating price of properties acquired as part of portfolio level transactions. For purposes of this allocation, the purchase price is inclusive of acquisition costs, which include legal costs, as well as other closing costs.

The Company incurs costs to acquire, stabilize and prepare our single-family rental properties to be rented. These costs include renovation and other costs associated with these activities. The Company capitalizes these costs as a component of the Company's investment in each single-family rental property, using specific identification and relative allocation methodologies. The capitalization period associated with the Company's stabilization activities begins at such time that activities commence and concludes at the time that a single-family rental property is available to be leased. Once a property is ready for its intended use, expenditures for ordinary maintenance and repairs are expensed to operations as incurred. The Company capitalizes expenditures that improve or extend the life of a home and for certain furniture and fixtures additions.

The Company records single-family rental properties at purchase price less accumulated depreciation. Costs capitalized in connection with property acquisitions and improvements are depreciated over their estimated useful lives on a straight line basis. For costs capitalized in connection with property acquisitions and improvements, the weighted average useful lives range from 5 years to 30 years. In-place lease intangibles are recorded based on the costs to execute similar leases as well as an estimate of lost rent revenue at in-place rental rates during the estimated time required to lease the property. The in-place lease intangibles are amortized over the remaining life of the leases and are recorded in "Single-family rental properties, net" on the Company's consolidated balance sheets. The weighted average remaining life of the leases is 7.4 months.

The Company assesses impairment in its single-family rental properties at least on a quarterly basis, or whenever events or changes in business circumstances indicate that carrying amounts of the assets may not be fully recoverable. When such trigger events occur, the Company determines whether there has been impairment by comparing the asset's carrying value with its estimated fair value. Should impairment exist, the asset is written down to its estimated fair value. This analysis is performed at the property level using estimated cash flows, which are estimated based on a number of assumptions that are subject to economic and market uncertainties, including, among others, demand for rental properties, competition for customers, changes in market rental rates, costs to operate each property, expected ownership periods and value of the property. If the carrying amount of a property exceeds the sum of its undiscounted future operating and disposition cash flows, an impairment loss is recorded for excess of the carrying amount over the estimated fair value.

Minimum contractual rents from leases are recognized on a straight-line basis over the terms of the leases in rental income. Therefore, actual amounts billed in accordance with the lease during any given period may be higher or lower than the amount of rental income recognized during the period. Straight-line rental income commences when the customer takes control of the leased premises.

Investment consolidation and transfers of financial assets

For each investment made, the Company evaluates the underlying entity that issued the securities acquired or to which the Company makes a loan to determine the appropriate accounting. A similar analysis will be performed for each entity with which the Company enters into an agreement for management, servicing or related services. In performing the analysis, the Company refers to guidance in ASC 810-10, "Consolidation." In situations where the Company is the transferor of financial assets, the Company refers to the guidance in ASC 860-10 "Transfers and Servicing."

In variable interest entities ("VIEs"), an entity is subject to consolidation under ASC 810-10 if the equity investors either do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support, are unable to direct the entity's activities or are not exposed to the entity's losses or entitled to its residual returns. VIEs within the scope of ASC

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810-10 are required to be consolidated by their primary beneficiary. The primary beneficiary of a VIE is determined to be the party that has both the power to direct the activities of a VIE that most significantly impact the VIE's economic performance and the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE. This determination can sometimes involve complex and subjective analyses. Further, ASC 810-10 also requires ongoing assessments of whether an enterprise is the primary beneficiary of a VIE. In accordance with ASC 810-10, all transferees, including variable interest entities, must be evaluated for consolidation. See Note 3 for more detail.

The Company entered into a resecuritization transaction in 2014 which resulted in the Company consolidating the VIE that was created to facilitate the transaction and to which the underlying assets in connection with the resecuritization were transferred. In determining the accounting treatment to be applied to this resecuritization transaction, the Company evaluated whether the entity used to facilitate this transaction was a VIE and, if so, whether it should be consolidated. Based on its evaluation, the Company concluded that the VIE should be consolidated. If the Company had determined that consolidation was not required, it would have then assessed whether the transfer of the underlying assets would qualify as a sale or should be accounted for as secured financings under GAAP. See Note 3 below for more detail.

The Company transferred certain of its CMBS in Q3 2018 from certain of its non-wholly owned subsidiaries into a newly formed entity so the Company could obtain financing on these real estate securities. The Company evaluated whether this newly formed entity was a VIE and, whether it should be consolidated. Based on its evaluation, the Company concluded that the VIE should be consolidated. If the Company had determined that consolidation was not required, it would have accounted for its investment in this entity as an equity method investment. See Note 3 below as well as the "Investments in debt and equity of affiliates" section above for more detail.

The Company may periodically enter into transactions in which it transfers assets to a third party. Upon a transfer of financial assets, the Company will sometimes retain or acquire senior or subordinated interests in the related assets. Pursuant to ASC 860-10, a determination must be made as to whether a transferor has surrendered control over transferred financial assets. That determination must consider the transferor's continuing involvement in the transferred financial asset, including all arrangements or agreements made contemporaneously with, or in contemplation of, the transfer, even if they were not entered into at the time of the transfer. The financial components approach under ASC 860-10 limits the circumstances in which a financial asset, or portion of a financial asset, should be derecognized when the transferor has not transferred the entire original financial asset to an entity that is not consolidated with the transferor in the financial statements being presented and/or when the transferor has continuing involvement with the transferred financial asset. It defines the term "participating interest" to establish specific conditions for reporting a transfer of a portion of a financial asset as a sale.

Under ASC 860-10, after a transfer of financial assets that meets the criteria for treatment as a sale—legal isolation, ability of transferee to pledge or exchange the transferred assets without constraint and transferred control—an entity recognizes the financial and servicing assets it acquired or retained and the liabilities it has incurred, derecognizes financial assets it has sold and derecognizes liabilities when extinguished. The transferor would then determine the gain or loss on sale of financial assets by allocating the carrying value of the underlying mortgage between securities or loans sold and the interests retained based on their fair values. The gain or loss on sale is the difference between the cash proceeds from the sale and the amount allocated to the securities or loans sold. When a transfer of financial assets does not qualify for sale accounting, ASC 860-10 requires the transfer to be accounted for as a secured borrowing with a pledge of collateral.

On February 12, 2016, the Company originated a \$12.0 million commercial loan and at closing, transferred a 15% or \$1.8 million interest in the loan (the "Participation Interest") to an unaffiliated third party. The Company, as transferor, evaluated the transfer under ASC 860-10, and concluded the transferred participation interest should be accounted for as a secured borrowing. The Company has recorded the \$12.0 million commercial loan on its consolidated balance sheets as an asset in the "Commercial loans, at fair value" line item. The Company has recorded a \$1.8 million liability in the "Loan participation payable, at fair value" line item representing the transfer of the participation interest. The Company has chosen to make a fair value election on the consolidated interest pursuant to ASC 825. The holder of the participation interest has no recourse to the general credit of the Company. The commercial loan was paid off in full in February 2017. The principal and interest due on the Participation Interest was paid from these proceeds. See Note 4 for more detail.

From time to time, the Company may securitize mortgage loans it holds if such financing is available. These transactions will be recorded in accordance with ASC 860-10 and will be accounted for as either a "sale" and the loans will be removed from the consolidated balance sheets or as a "financing" and will be classified as "real estate securities" on the consolidated balance sheets, depending upon the structure of the securitization transaction. ASC 860-10 is a standard that may require the Company to exercise significant judgment in determining whether a transaction should be recorded as a "sale" or a "financing."

Interest income recognition

Interest income on the Company's real estate securities portfolio is accrued based on the actual coupon rate and the outstanding principal balance of such securities. The Company has elected to record interest in accordance with ASC 835-30-35-2, "Imputation of Interest," using the effective interest method for all securities accounted for under the fair value option (ASC 825). As such, premiums and discounts are amortized or accreted into interest income over the lives of the securities in accordance with ASC 310-20, "Nonrefundable Fees and Other Costs," ASC 320-10 or ASC 325-40, as applicable. Total interest income is recorded in the "Interest income" line item on the consolidated statement of operations.

On at least a quarterly basis for securities accounted for under ASC 320-10 and ASC 310-20 (generally Agency RMBS, exclusive of interest-only securities), prepayments of the underlying collateral must be estimated, which directly affect the speed at which the Company amortizes premiums on its securities. If actual and anticipated cash flows differ from previous estimates, the Company records an adjustment in the current period to the amortization of premiums for the impact of the cumulative change in the effective yield through the reporting date.

Similarly, the Company also reassesses the cash flows on at least a quarterly basis for securities accounted for under ASC 325-40 (generally Non-Agency RMBS, ABS, CMBS, interest-only securities and Excess MSRs). In estimating these cash flows, there are a number of assumptions made that are uncertain and subject to judgments and assumptions based on subjective and objective factors and contingencies. These include the rate and timing of principal and interest receipts (including assumptions of prepayments, repurchases, defaults and liquidations), the pass-through or coupon rate and interest rate fluctuations. In addition, interest payment shortfalls due to delinquencies on the underlying mortgage loans have to be estimated. Differences between previously estimated cash flows and current actual and anticipated cash flows are recognized prospectively through an adjustment of the yield over the remaining life of the security based on the current amortized cost of the investment as adjusted for credit impairment, if any.

Interest income on the Company's loan portfolio is accrued based on the actual coupon rate and the outstanding principal balance of such loans. The Company has elected to record interest in accordance with ASC 835-30-35-2 using the effective interest method for all loans accounted for under the fair value option (ASC 825). Any amortization will be reflected as an adjustment to interest income in the consolidated statement of operations.

For security and loan investments purchased with evidence of deterioration of credit quality for which it is probable, at acquisition, that the Company will be unable to collect all contractually required payments receivable, the Company will apply the provisions of ASC 310-30. For purposes of income recognition, the Company may aggregate loans that have common risk characteristics into pools and uses a composite interest rate and expectation of cash flows expected to be collected for the pool. ASC 310-30 addresses accounting for differences between contractual cash flows and cash flows expected to be collected from an investor's initial investment in loans or debt securities (loans) acquired in a transfer if those differences are attributable, at least in part, to credit quality. ASC 310-30 limits the yield that may be accreted (accretable yield) to the excess of the investor's estimate of undiscounted expected principal, interest and other cash flows (cash flows expected at acquisition to be collected) over the investor's initial investment in the loan. ASC 310-30 requires that the excess of contractual cash flows over cash flows expected to be collected (nonaccretable difference) not be recognized as an adjustment of yield, loss accrual or valuation allowance. Subsequent increases in cash flows expected to be collected generally should be recognized prospectively through an adjustment of the loan's yield over its remaining life. Decreases in cash flows expected to be collected should be recognized as impairment.

The Company's accrual of interest, discount accretion and premium amortization for U.S. federal and other tax purposes differs from the financial accounting treatment of these items as described above.

Financing arrangements

The Company finances the acquisition of certain assets within its portfolio through the use of financing arrangements. Financing arrangements include repurchase agreements and financing facilities. The Company's financing facilities include both term loans and revolving facilities. Repurchase agreements and financing facilities are treated as collateralized financing transactions and carried at primarily their contractual amounts, including accrued interest, as specified in the respective agreements. The carrying amount of the Company's repurchase agreements and revolving facilities approximates fair value.

The Company pledges certain securities, loans or properties as collateral under financing arrangements with financial institutions, the terms and conditions of which are negotiated on a transaction-by-transaction basis. The amounts available to be borrowed under repurchase agreements and revolving facilities are dependent upon the fair value of the securities, or loans pledged as

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collateral, which can fluctuate with changes in interest rates, type of security and liquidity conditions within the banking, mortgage finance and real estate industries. In response to declines in fair value of assets pledged under repurchase agreements and revolving facilities, lenders may require the Company to post additional collateral or pay down borrowings to re-establish agreed upon collateral requirements, referred to as margin calls. As of September 30, 2018 and December 31, 2017, the Company has met all margin call requirements.

Accounting for derivative financial instruments

The Company enters into derivative contracts as a means of mitigating interest rate risk rather than to enhance returns. The Company accounts for derivative financial instruments in accordance with ASC 815-10, "Derivatives and Hedging." ASC 815-10 requires an entity to recognize all derivatives as either assets or liabilities on the balance sheet and to measure those instruments at fair value. Additionally, if or when hedge accounting is elected, the fair value adjustments will affect either other comprehensive income in stockholders' equity until the hedged item is recognized in earnings or net income depending on whether the derivative instrument is designated and qualifies as a hedge for accounting purposes and, if so, the nature of the hedging activity. As of September 30, 2018 and December 31, 2017, the Company did not have any interest rate derivatives designated as hedges. All derivatives have been recorded at fair value in accordance with ASC 820-10, with corresponding changes in value recognized in the consolidated statement of operations. The Company records derivative asset and liability positions on a gross basis with respect to its counterparties. The Company records the daily receipt or payment of variation margin associated with the Company's centrally cleared derivative instruments on a net basis. See Note 9 for a discussion of this accounting treatment. During the period in which the Company unwinds a derivative, it records a realized gain/(loss) in the "Net realized gain/(loss)" line item in the consolidated statement of operations.

To-be-announced securities

A to-be-announced security ("TBA") is a forward contract for the purchase or sale of Agency RMBS at a predetermined price, face amount, issuer, coupon and stated maturity on an agreed-upon future date. The specific Agency RMBS delivered into or received from the contract upon the settlement date, published each month by the Securities Industry and Financial Markets Association, are not known at the time of the transaction. The Company may also choose, prior to settlement, to move the settlement of these securities out to a later date by entering into an offsetting short or long position (referred to as a pair off), net settling the paired off positions for cash, simultaneously purchasing or selling a similar TBA contract for a later settlement date. This transaction is commonly referred to as a dollar roll. The Agency RMBS purchased or sold for a forward settlement date are typically priced at a discount to Agency RMBS for settlement in the current month. This difference, or discount, is referred to as the price drop. The price drop is the economic equivalent of net interest carry income on the underlying Agency RMBS over the roll period (interest income less implied financing cost) and is commonly referred to as dollar roll income/(loss). Consequently, forward purchases of Agency RMBS and dollar roll transactions represent a form of off-balance sheet financing. Dollar roll income is recognized in the consolidated statement of operations in the line item "Unrealized gain/(loss) on derivative and other instruments, net."

The Company presents the purchase or sale of TBAs net of the corresponding payable or receivable, respectively, until the settlement date of the transaction. Contracts for the purchase or sale of Agency RMBS are accounted for as derivatives if they do not qualify for the "regular way" security trade scope exception found in ASC 815-10. To be eligible for this scope exception, the contract must meet the following conditions: (1) there is no other way to purchase or sell that security, (2) delivery of that security and settlement will occur within the shortest period possible for that type of security, and (3) it is probable at inception and throughout the term of the individual contract that the contract will not settle net and will result in physical delivery of a security when it is issued. Unrealized gains and losses associated with TBA contracts not meeting the regular-way exception and not designated as hedging instruments are recognized in the consolidated statement of operations in the line item "Unrealized gain/(loss) on derivative and other instruments, net."

U.S. Treasury securities

The Company may purchase long or sell short U.S. Treasury securities to help mitigate the potential impact of changes in interest rates. The Company may finance its purchase of U.S. Treasury securities with overnight repurchase agreements. The Company may borrow securities to cover short sales of U.S. Treasury securities through overnight reverse repurchase agreements, which are accounted for as borrowing transactions, and the Company recognizes an obligation to return the borrowed securities at fair value on its consolidated balance sheets based on the value of the underlying borrowed securities as of the reporting date. Interest income and expense associated with purchases and short sales of U.S. Treasury securities are recognized in “Interest income” and “Interest expense”, respectively, on the consolidated statement of operations. Realized and unrealized gains and losses associated with purchases and short sales of U.S. Treasury securities are recognized in “Net realized gain/(loss)” and “Unrealized gain/(loss) on derivative and other instruments, net,” respectively, on the consolidated statement of operations. As of September 30, 2018, and December 31, 2017, the Company had no positions in U.S. Treasury securities.

Short positions in U.S. Treasury securities through reverse repurchase agreements

The Company may sell short U.S. Treasury securities to help mitigate the potential impact of changes in interest rates. The Company may borrow securities to cover short sales of U.S. Treasury securities under reverse repurchase agreements, which are accounted for as borrowing transactions, and the Company recognizes an obligation to return the borrowed securities at fair value on its consolidated balance sheets based on the value of the underlying borrowed securities as of the reporting date. The Company establishes haircuts to ensure the market value of the underlying assets remain sufficient to protect the Company in the event of a default by a counterparty. Realized and unrealized gains and losses associated with purchases and short sales of U.S. Treasury securities are recognized in “Net realized gain/(loss)” and “Unrealized gain/(loss) on derivative and other instruments, net,” respectively, on the consolidated statement of operations.

Manager compensation

The management agreement provides for payment to the Manager of a management fee. The management fee is accrued and expensed during the period for which it is earned. For a more detailed discussion on the fees payable under the management agreement, see Note 12.

Income taxes

The Company conducts its operations to qualify and be taxed as a REIT. Accordingly, the Company will generally not be subject to federal or state corporate income tax to the extent that the Company makes qualifying distributions to its stockholders, and provided that it satisfies on a continuing basis, through actual investment and operating results, the REIT requirements including certain asset, income, distribution and stock ownership tests. If the Company fails to qualify as a REIT, and does not qualify for certain statutory relief provisions, it will be subject to U.S. federal, state and local income taxes and may be precluded from qualifying as a REIT for the four taxable years following the year in which the Company fails to qualify as a REIT.

The dividends paid deduction of a REIT for qualifying dividends to its stockholders is computed using the Company’s taxable income/(loss) as opposed to net income/(loss) reported on the Company’s GAAP financial statements. Taxable income/(loss), generally, will differ from net income/(loss) reported on the financial statements because the determination of taxable income/(loss) is based on tax principles and not financial accounting principles.

The Company elected to treat certain domestic subsidiaries as taxable REIT subsidiaries (“TRSs”) and may elect to treat other subsidiaries as TRSs. In general, a TRS may hold assets and engage in activities that the Company cannot hold or engage in directly and generally may engage in any real estate or non-real estate-related business.

A domestic TRS may declare dividends to the Company which will be included in the Company’s taxable income/(loss) and necessitate a distribution to stockholders. Conversely, if the Company retains earnings at the domestic TRS level, no distribution is required and the Company can increase book equity of the consolidated entity. A domestic TRS is subject to U.S. federal, state and local corporate income taxes.

The Company elected to treat one of its foreign subsidiaries as a TRS and, accordingly, taxable income generated by this foreign TRS may not be subject to local income taxation, but generally will be included in the Company’s income on a current basis as Subpart F income, whether or not distributed.

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The Company's financial results are generally not expected to reflect provisions for current or deferred income taxes, except for any activities conducted through one or more TRSs that are subject to corporate income taxation. The Company believes that it will operate in a manner that will allow it to qualify for taxation as a REIT. As a result of the Company's expected REIT qualification, it does not generally expect to pay federal or state corporate income tax. Many of the REIT requirements, however, are highly technical and complex. If the Company were to fail to meet the REIT requirements, it would be subject to federal income taxes and applicable state and local taxes.

As a REIT, if the Company fails to distribute in any calendar year (subject to specific timing rules for certain dividends paid in January) at least the sum of (i) 85% of its ordinary income for such year, (ii) 95% of its capital gain net income for such year, and (iii) any undistributed taxable income from the prior year, the Company would be subject to a non-deductible 4% excise tax on the excess of such required distribution over the sum of (i) the amounts actually distributed and (ii) the amounts of income retained and on which the Company has paid corporate income tax.

The Company evaluates uncertain income tax positions, if any, in accordance with ASC 740, "Income Taxes." The Company classifies interest and penalties, if any, related to unrecognized tax benefits as a component of provision for income taxes. See Note 11 for further details.

Deal related performance fees

The Company accrues deal related performance fees, payable to Arc Home and third party operators, on certain of its CMBS, Excess MSR and its single-family rental properties. The deal related performance fees are based on these investments meeting certain performance hurdles. The fees are accrued and expensed during the period for which they are earned.

Stock-based compensation

The Company applies the provisions of ASC 718, "Compensation—Stock Compensation" with regard to its equity incentive plans. ASC 718 covers a wide range of share-based compensation arrangements including stock options, restricted stock plans, performance-based awards, stock appreciation rights and employee stock purchase plans. ASC 718 requires that compensation cost relating to stock-based payment transactions be recognized in financial statements. Compensation cost is measured based on the fair value of the equity or liability instruments issued.

Compensation cost related to restricted common shares issued to the Company's directors is measured at its estimated fair value at the grant date, and is amortized and expensed over the vesting period on a straight-line basis. Compensation cost related to restricted common shares and restricted stock units issued to the Manager is initially measured at estimated fair value at the grant date, and is remeasured on subsequent dates to the extent the awards are unvested. Restricted stock units granted to the Manager do not entitle the participant the rights of a shareholder of the Company's common stock, such as dividend and voting rights, until shares are issued in settlement of the vested units. The restricted stock units are not considered to be participating shares. Restricted stock units are measured at fair value reduced by the present value of the dividends expected to be paid on the underlying shares during the requisite service period, discounted at an assumed risk free rate. The Company has elected to use the straight-line method to amortize compensation expense for restricted stock units.

Recent accounting pronouncements

In August 2016, the FASB issued ASU 2016-15, "Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). ASU 2016-15 addresses eight specific cash flow issues with the objective of reducing existing diversity of how certain cash receipts and cash payments are presented. These specific issues include debt prepayment and debt extinguishment costs, settlement of zero-coupon debt, proceeds from the settlement of insurance claims, and beneficial interests in securitization transactions, among others. The adoption of this standard reclassified certain items on the Company's consolidated statement of cash flows between the "Cash flows from Operating Activities" and the "Cash Flows from Investing Activities" line items as it pertains to the settlement of certain instruments. The Company adopted ASU 2016-15 in the first quarter of 2018 and applied the guidance retrospectively to its prior period consolidated statement of cash flows.

In November 2016, the FASB issued ASU 2016-18, Statement of Cash Flows (Topic 230): Restricted Cash. The amendments in this update require that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. The adoption of this standard required the Company to reconcile changes in cash, cash equivalents, and restricted cash on the consolidated statement of cash flows. As a result, the

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Company no longer presents transfers between cash and cash equivalents and restricted cash in the statement of cash flows. The Company adopted ASU 2016-18 in the first quarter of 2018 and applied the guidance retrospectively to its prior period consolidated statement of cash flows.

In June 2016, the FASB issued ASU 2016-13, "Financial Instruments – Credit Losses" ("ASU 2016-13"). ASU 2016-13 introduces a new model related to the accounting for credit losses on instruments, specifically, financial assets subject to credit losses and measured at amortized cost and certain off-balance sheet credit exposures. ASU 2016-13 amends the current guidance, requiring an OTTI charge only when fair value is below the amortized cost of an asset. The length of time the fair value of an available-for-sale debt security has been below the amortized cost will no longer impact the determination of whether a credit loss exists. As such, it is no longer an other-than-temporary model. In addition, credit losses on available-for-sale debt securities will now be limited to the difference between the security's amortized cost basis and its fair value. The new debt security model will also require the use of an allowance to record estimated credit losses. The new guidance also expands the disclosure requirements regarding an entity's assumptions and models. In addition, public entities will need to disclose the amortized cost balance for each class of financial asset by credit quality indicator, disaggregated by the year of origination (i.e., by vintage year). ASU 2016-13 is effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. The Company is currently evaluating its method of adoption and the impact this ASU will have on its consolidated financial statements.

In March 2017, the FASB issued ASU 2017-8, "Premium Amortization of Purchased Callable Debt Securities" ("ASU 2017-8"). The amendments in this update require purchase premiums for investments in debt securities that are noncontingently callable by the issuer (at a fixed price and preset date) to be amortized to the earliest call date. Previously, purchase premiums for such investments were permitted to be amortized to the instrument's maturity date. ASU 2017-8 is effective for public business entities for fiscal years beginning after December 15, 2018 and interim periods within those years. The Company is currently assessing the impact this guidance will have on its consolidated financial statements.

In June 2018, the FASB issued ASU 2018-7, "Improvements to Nonemployee Share-Based Payment Accounting" ("ASU 2018-7"). The standard largely aligns the accounting for share-based payment awards issued to employees and nonemployees. Equity-classified share-based payment awards issued to nonemployees will be measured on the grant date, instead of being remeasured through the performance completion date (generally the vesting date), as required under the current guidance. The standard is to be applied on a modified retrospective basis through a cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year when adopted. The standard is effective for public business entities for fiscal years beginning after December 15, 2018 and interim periods within those years. The Company is currently assessing the impact this guidance will have on its consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13, "Fair Value Measurement (Topic 820) Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement" ("ASU 2018-13"). ASU 2018-13 changes the fair value measurement disclosure requirements of ASC 820 "Fair Value Measurement" by adding, eliminating, and modifying certain disclosure requirements. ASU 2018-13 is effective for all entities for fiscal years beginning after December 15, 2019 and requires application of the prospective method of transition. The Company is currently assessing the impact the guidance will have on its consolidated consolidated financial statements.

3. Real Estate Securities

The following tables detail the Company's real estate securities portfolio as of September 30, 2018 and December 31, 2017. The Company's Agency RMBS are mortgage pass-through certificates or collateralized mortgage obligations ("CMOs") representing interests in or obligations backed by pools of residential mortgage loans issued or guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae. The principal and interest payments on Agency RMBS securities have an explicit guarantee by either an agency of the U.S. government or a U.S. government-sponsored entity. The Company's Non-Agency RMBS, ABS and CMBS portfolios are primarily not issued or guaranteed by Fannie Mae, Freddie Mac or any agency of the U.S. Government and are therefore subject to credit risk.

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The following table details the Company's real estate securities portfolio as of September 30, 2018 (in thousands):

	Current Face	Premium / (Discount)	Amortized Cost	Gross Unrealized (1)		Fair Value	Weighted Average	
				Gains	Losses		Coupon (2)	Yield
Agency RMBS:								
30 Year Fixed Rate	\$ 1,740,991	\$ 44,102	\$ 1,785,093	\$ 523	\$ (23,147)	\$ 1,762,469	3.99%	3.61%
Fixed Rate CMO	46,042	350	46,392	—	(1,069)	45,323	3.00%	2.79%
ARM	108,008	506	108,514	—	(2,693)	105,821	2.41%	2.87%
Interest Only	700,861	(581,230)	119,631	1,927	(3,456)	118,102	3.74%	7.73%
Total Agency:	2,595,902	(536,272)	2,059,630	2,450	(30,365)	2,031,715	3.84%	3.79%
Credit Investments:								
Non-Agency RMBS	851,628	(197,511)	654,117	58,650	(1,772)	710,995	4.81%	6.62%
Non-Agency RMBS Interest Only	315,347	(312,148)	3,199	1,329	(668)	3,860	0.56%	26.75%
Total Non-Agency:	1,166,975	(509,659)	657,316	59,979	(2,440)	714,855	4.09%	6.73%
ABS	37,453	(176)	37,277	311	(44)	37,544	8.79%	9.36%
CMBS	389,160	(166,154)	223,006	14,022	(1,676)	235,352	5.93%	8.32%
CMBS Interest Only	3,410,010	(3,361,455)	48,555	2,562	(420)	50,697	0.25%	6.81%
Total CMBS:	3,799,170	(3,527,609)	271,561	16,584	(2,096)	286,049	0.53%	8.05%
Total	\$ 7,599,500	\$ (4,573,716)	\$ 3,025,784	\$ 79,324	\$ (34,945)	\$ 3,070,163	2.24%	4.94%

- (1) The Company has chosen to make a fair value election pursuant to ASC 825 for its real estate securities portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on real estate securities and loans, net" line item on the consolidated statement of operations. The gross unrealized stated above represents inception to date unrealized gains/(losses).
- (2) Equity residual investments and principal only securities with a zero coupon rate are excluded from this calculation.

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The following table details the Company's real estate securities portfolio as of December 31, 2017 (in thousands):

	Current Face	Premium / (Discount)	Amortized Cost	Gross Unrealized (1)		Fair Value	Weighted Average	
				Gains	Losses		Coupon (2)	Yield
Agency RMBS:								
30 Year Fixed Rate	\$ 1,848,172	\$ 81,134	\$ 1,929,306	\$ 5,125	\$ (5,398)	\$ 1,929,033	3.79%	3.13%
Fixed Rate CMO	52,264	406	52,670	281	—	52,951	3.00%	2.79%
ARM	176,561	(835)	175,726	683	(22)	176,387	2.35%	2.83%
Interest Only	644,239	(554,353)	89,886	1,608	(2,704)	88,790	3.27%	6.84%
Total Agency:	2,721,236	(473,648)	2,247,588	7,697	(8,124)	2,247,161	3.56%	3.25%
Credit Investments:								
Non-Agency RMBS	1,165,534	(228,543)	936,991	66,813	(2,210)	1,001,594	4.45%	6.10%
Non-Agency RMBS Interest Only	371,297	(367,977)	3,320	130	(788)	2,662	0.30%	10.49%
Total Non-Agency:	1,536,831	(596,520)	940,311	66,943	(2,998)	1,004,256	3.38%	6.12%
ABS	40,655	(438)	40,217	741	—	40,958	7.61%	8.27%
CMBS	221,305	(51,818)	169,487	1,060	(1,080)	169,467	5.58%	6.23%
CMBS Interest Only	2,021,261	(1,974,313)	46,948	3,778	(24)	50,702	0.40%	6.63%
Total CMBS:	2,242,566	(2,026,131)	216,435	4,838	(1,104)	220,169	0.80%	6.32%
Total	\$ 6,541,288	\$ (3,096,737)	\$ 3,444,551	\$ 80,219	\$ (12,226)	\$ 3,512,544	2.60%	4.32%

(1) The Company has chosen to make a fair value election pursuant to ASC 825 for its real estate securities portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on real estate securities and loans, net" line item on the consolidated statement of operations. The gross unrealized stated above represents inception to date unrealized gains/(losses).

(2) Equity residual investments and principal only securities with a zero coupon rate are excluded from this calculation.

The following table presents the gross unrealized losses and fair value of the Company's real estate securities by length of time that such securities have been in a continuous unrealized loss position as of September 30, 2018 and December 31, 2017 (in thousands):

As of	Less than 12 months		Greater than 12 months	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
September 30, 2018	\$ 1,803,448	\$ (31,967)	\$ 63,062	\$ (2,978)
December 31, 2017	1,116,925	(8,012)	188,434	(4,214)

As described in Note 2, the Company evaluates securities for OTTI on at least a quarterly basis. The determination of whether a security is other-than-temporarily impaired involves judgments and assumptions based on subjective and objective factors. When the fair value of a real estate security is less than its amortized cost at the balance sheet date, the security is considered impaired, and the impairment is designated as either "temporary" or "other-than-temporary."

For the three months ended September 30, 2018 the Company recognized an OTTI charge of \$5.0 million on its securities, which is included in the "Net realized gain/(loss)" line item on the consolidated statement of operations. Of this amount, \$2.9 million was recognized on eight securities in an unrealized loss position which the Company demonstrated intent to sell, and the charge represents a write-down of cost to fair value as of the reporting date. The Company recorded \$2.1 million of OTTI due to an adverse change in cash flows on certain securities where the fair values of the securities were less than their carrying amounts. Of the \$5.0 million of OTTI recorded, \$3.4 million related to securities where OTTI was not recognized in a prior year.

For the nine months ended September 30, 2018 the Company recognized an OTTI charge of \$6.7 million on its securities, which is included in the "Net realized gain/(loss)" line item on the consolidated statement of operations. Of this amount, \$2.9 million was recognized on eight securities in an unrealized loss position which the Company demonstrated intent to sell, and the charge

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represents a write-down of cost to fair value as of the reporting date. The Company recorded \$3.8 million of OTTI due to an adverse change in cash flows on certain securities where the fair values of the securities were less than their carrying amounts. Of the \$6.7 million of OTTI recorded, \$4.5 million related to securities where OTTI was not recognized in a prior year.

For the three months ended September 30, 2017 the Company recognized an OTTI charge of \$2.0 million on its securities, which is included in the “Net realized gain/(loss)” line item on the consolidated statement of operations. The Company recorded \$2.0 million of OTTI due to an adverse change in cash flows on certain securities where the fair values of the securities were less than their carrying amounts. Of the \$2.0 million of OTTI recorded, \$0.7 million related to securities where OTTI was not recognized in a prior year.

For the nine months ended September 30, 2017 the Company recognized an OTTI charge of \$6.5 million on its securities, which is included in the “Net realized gain/(loss)” line item on the consolidated statement of operations. Of this amount, \$1.9 million was recognized on three securities in an unrealized loss position which the Company demonstrated intent to sell, and the charge represents a write-down of cost to fair value as of the reporting date. The Company recorded \$4.6 million of OTTI due to an adverse change in cash flows on certain securities where the fair values of the securities were less than their carrying amounts. Of the \$4.6 million of OTTI recorded, \$1.8 million related to securities where OTTI was not recognized in a prior year.

The decline in value of the remaining real estate securities is solely due to market conditions and not the credit quality of the assets. The investments in any remaining unrealized loss positions are not considered other than temporarily impaired because the Company currently has the ability and intent to hold the investments to maturity or for a period of time sufficient for a forecasted market price recovery up to or beyond the cost of the investments and the Company is not required to sell the investments for regulatory or other reasons.

The following table details the weighted average life of our real estate securities broken out by Agency RMBS, Agency Interest-Only (“IO”) and Credit Investments as of September 30, 2018 (in thousands):

Weighted Average Life (3)	Agency RMBS (1)			Agency IO			Credit Investments (2)		
	Fair Value	Amortized Cost	Weighted Average Coupon	Fair Value	Amortized Cost	Weighted Average Coupon	Fair Value	Amortized Cost	Weighted Average Coupon (4)
Less than or equal to 1 year	\$ —	\$ —	—	\$ —	\$ —	—	\$ 110,603	\$ 111,154	0.74%
Greater than one year and less than or equal to five years	151,172	154,934	2.59%	18,379	17,559	3.02%	327,349	312,781	0.99%
Greater than five years and less than or equal to ten years	1,407,700	1,426,849	4.01%	99,723	102,072	3.97%	436,396	398,028	1.53%
Greater than ten years	354,741	358,216	3.90%	—	—	—	164,100	144,191	5.69%
Total	\$ 1,913,613	\$ 1,939,999	3.87%	\$ 118,102	\$ 119,631	3.74%	\$ 1,038,448	\$ 966,154	1.33%

- (1) For purposes of this table, Agency RMBS represent securities backed by Fixed Rate 30 Year mortgages, ARMs and Fixed Rate CMOs.
- (2) For purposes of this table, Credit Investments represent Non-Agency RMBS, ABS, CMBS and Interest Only credit securities.
- (3) Actual maturities of mortgage-backed securities are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (4) Equity residual investments and principal only securities with a zero coupon rate are excluded from this calculation.

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The following table details the weighted average life of our real estate securities broken out by Agency RMBS, Agency IO and Credit Investments as of December 31, 2017 (in thousands):

Weighted Average Life (3)	Agency RMBS (1)			Agency IO			Credit Investments (2)		
	Fair Value	Amortized Cost	Weighted Average Coupon	Fair Value	Amortized Cost	Weighted Average Coupon	Fair Value	Amortized Cost	Weighted Average Coupon (4)
Less than or equal to 1 year	\$ —	\$ —	—	\$ —	\$ —	—	\$ 117,532	\$ 117,805	2.15%
Greater than one year and less than or equal to five years	229,338	228,397	2.50%	28,837	29,520	2.36%	477,066	460,334	1.07%
Greater than five years and less than or equal to ten years	1,865,474	1,865,706	3.79%	59,953	60,366	4.36%	482,184	452,403	2.87%
Greater than ten years	63,559	63,599	3.50%	—	—	—	188,601	166,421	5.31%
Total	\$ 2,158,371	\$ 2,157,702	3.64%	\$ 88,790	\$ 89,886	3.27%	\$ 1,265,383	\$ 1,196,963	1.89%

- (1) For purposes of this table, Agency RMBS represent securities backed by Fixed Rate 30 Year mortgages, ARMs and Fixed Rate CMOs.
- (2) For purposes of this table, Credit Investments represent Non-Agency RMBS, ABS, CMBS and Interest Only credit securities.
- (3) Actual maturities of mortgage-backed securities are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (4) Equity residual investments and principal only securities with a zero coupon rate are excluded from this calculation.

For the three months ended September 30, 2018, the Company sold 14 securities for total proceeds of \$201.7 million, with an additional \$283.9 million proceeds on 24 unsettled security sales, recording realized gains of \$0.3 million and realized losses of \$18.4 million. For the nine months ended September 30, 2018, the Company sold 119 securities for total proceeds of \$1.5 billion, with an additional \$283.9 million proceeds on 24 unsettled security sales, recording realized gains of \$6.5 million and realized losses of \$53.9 million.

For the three months ended September 30, 2017, the Company sold 22 securities for total proceeds of \$206.4 million, recording realized gains of \$2.5 million and realized losses of \$0.1 million. For the nine months ended September 30, 2017, the Company sold 52 securities for total proceeds of \$467.3 million, recording realized gains of \$3.5 million and realized losses of \$2.2 million.

See Notes 4 and 9 for amounts realized on sales of loans and the settlement of certain derivatives, respectively.

A Special Purpose Entity (“SPE”) is an entity designed to fulfill a specific limited need of the company that organized it. SPEs are often used to facilitate transactions that involve securitizing financial assets or resecuritizing previously securitized financial assets. The objective of such transactions may include obtaining non-recourse financing, obtaining liquidity or refinancing the underlying securitized financial assets on improved terms. Securitization involves transferring assets to a SPE to convert all or a portion of those assets into cash before they would have been realized in the normal course of business through the SPE’s issuance of debt or equity instruments. Investors in a SPE usually have recourse only to the assets in the SPE and depending on the overall structure of the transaction, may benefit from various forms of credit enhancement, such as over-collateralization in the form of excess assets in the SPE, priority with respect to receipt of cash flows relative to holders of other debt or equity instruments issued by the SPE, or a line of credit or other form of liquidity agreement that is designed with the objective of ensuring that investors receive principal and/or interest cash flow on the investment in accordance with the terms of their investment agreement. See Note 2 for more detail.

The Company previously entered into a resecuritization transaction in 2014 that resulted in the Company consolidating the VIE created for the transaction with the SPE, which was used to facilitate the transaction (“VIE A”). The Company concluded that the SPE created to facilitate this transaction was a VIE. The Company also determined that the VIE created to facilitate the resecuritization transaction should be consolidated by the Company and treated as a secured borrowing, based on the Company’s involvement in the VIE, including the design and purpose of the SPE, and whether the Company’s involvement reflected a controlling financial interest that resulted in the Company being deemed the primary beneficiary of the VIE.

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The following table details certain information on VIE A as of September 30, 2018 (in thousands):

	Current Face	Fair Value	Weighted Average		
			Coupon	Yield	Life (Years) (1)
Consolidated tranche (2)	\$ 11,403	\$ 11,481	3.85%	4.46%	2.46
Retained tranche	8,486	6,548	4.92%	18.65%	8.52
Total resecuritized asset	\$ 19,889	\$ 18,029	4.31%	9.61%	5.04

- (1) Actual maturities of investments and loans are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (2) As of September 30, 2018, the fair market value of the consolidated tranche is included in the Company's consolidated balance sheets as "Non-Agency RMBS." As of September 30, 2018, the Company has recorded secured financing of \$11.5 million on the consolidated balance sheets in the "Securitized debt, at fair value" line item. The Company recorded the proceeds from the issuance of the secured financing in the "Cash Flows from Financing Activities" section of the consolidated statement of cash flows at the time of securitization.

The following table details certain information on VIE A as of December 31, 2017 (in thousands):

	Current Face	Fair Value	Weighted Average		
			Coupon	Yield	Life (Years) (1)
Consolidated tranche (2)	\$ 16,355	\$ 16,478	3.11%	3.92%	2.95
Retained tranche	8,618	6,100	4.28%	15.48%	9.04
Total resecuritized asset	\$ 24,973	\$ 22,578	3.51%	7.04%	5.05

- (1) Actual maturities of investments and loans are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (2) As of December 31, 2017, the fair market value of the consolidated tranche is included in the Company's consolidated balance sheets as "Non-Agency RMBS." As of December 31, 2017, the Company has recorded secured financing of \$16.5 million on the consolidated balance sheets in the "Securitized debt, at fair value" line item. The Company recorded the proceeds from the issuance of the secured financing in the "Cash Flows from Financing Activities" section of the consolidated statement of cash flows at the time of securitization.

The holders of the consolidated tranche have no recourse to the general credit of the Company. The Company has no obligation to provide any other explicit or implicit support to VIE A.

The Company transferred certain of its CMBS in Q3 2018 from certain of its non-wholly owned subsidiaries into a newly formed entity so it could obtain financing on these real estate securities ("VIE B"). The Company concluded that the entity created to facilitate this transfer was a VIE. The Company also determined that VIE B should be consolidated by the Company based on the Company's 100% equity ownership in VIE B (despite a profit participation interest held by an unaffiliated third party in VIE B), the Company's involvement in VIE B, including the design and purpose of the entity, and whether the Company's involvement reflected a controlling financial interest that resulted in the Company being deemed the primary beneficiary of VIE B.

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The following table details certain information on VIE B as of September 30, 2018 (in thousands):

	September 30, 2018	
Assets		
CMBS	\$	81,146
Cash and cash equivalents		492
Restricted cash		351
Interest receivable		152
Total assets	\$	82,141
Liabilities		
Financing arrangements, net	\$	56,891
Interest payable		205
Accrued expenses		2,399
Total liabilities	\$	59,495

The Company did not have an interest in VIE B as of December 31, 2017.

Except for restricted cash, assets held by VIE B are not restricted and can be used to settle any obligations of the Company. The liabilities of VIE B are recourse to the Company and can be satisfied with assets of the Company.

4. Loans

Residential mortgage loans

In June 2018, the Company purchased a residential mortgage loan portfolio with an aggregate unpaid principal balance and acquisition fair value of \$86.3 million and \$76.3 million, respectively, net of sales.

The table below details certain information regarding the Company's residential mortgage loan portfolio as of September 30, 2018 (in thousands):

	Unpaid Principal Balance	Premium (Discount)	Amortized Cost	Gross Unrealized (1)		Fair Value	Weighted Average		
				Gains	Losses		Coupon	Yield	Life (Years) (2)
Residential mortgage loans	\$ 101,259	\$ (13,982)	\$ 87,277	\$ 975	\$ (652)	\$ 87,600	3.57%	6.84%	7.56

- (1) The Company has chosen to make a fair value election pursuant to ASC 825 for its loan portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on real estate securities and loans, net" line item. The gross unrealized stated above represents inception to date unrealized gains (losses).
- (2) Actual maturities of residential mortgage loans are generally shorter than stated contractual maturities. Maturities are affected by the lives of the underlying mortgages, periodic payments of principal and prepayments of principal.

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The table below details certain information regarding the Company's residential mortgage loan portfolio as of December 31, 2017 (in thousands):

	Unpaid Principal Balance	Premium (Discount)	Amortized Cost	Gross Unrealized (1)		Fair Value	Weighted Average		
				Gains	Losses		Coupon	Yield	Life (Years) (2)
Residential mortgage loans	\$ 25,676	\$ (7,792)	\$ 17,884	\$ 1,006	\$ —	\$ 18,890	3.10%	12.24%	5.67

- (1) The Company has chosen to make a fair value election pursuant to ASC 825 for its loan portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on real estate securities and loans, net" line item. The gross unrealized stated above represents inception to date unrealized gains (losses).
- (2) Actual maturities of residential mortgage loans are generally shorter than stated contractual maturities. Maturities are affected by the lives of the underlying mortgages, periodic payments of principal and prepayments of principal.

The table below details information regarding the Company's re-performing and non-performing residential mortgage loans as of September 30, 2018 and December 31, 2017 (in thousands):

	September 30, 2018		December 31, 2017	
	Fair Value	Unpaid Principal Balance	Fair Value	Unpaid Principal Balance
Re-Performing	\$ 45,143	\$ 51,776	\$ 7,069	\$ 9,544
Non-Performing	42,457	49,483	11,821	16,132
	\$ 87,600	\$ 101,259	\$ 18,890	\$ 25,676

As described in Note 2, the Company evaluates loans for OTTI on at least a quarterly basis. The determination of whether a loan is other-than-temporarily impaired involves judgments and assumptions based on subjective and objective factors. When the fair value of a loan is less than its amortized cost at the balance sheet date, the loan is considered impaired, and the impairment is designated as either "temporary" or "other-than-temporary."

No OTTI was recorded for the three and nine months ended September 30, 2018 on the Company's residential mortgage loans.

No OTTI was recorded for the three months ended September 30, 2017. For the nine months ended September 30, 2017 the Company recognized \$0.4 million of OTTI on certain loan pools, which is included in the "Net realized gain/(loss)" line item on the consolidated statement of operations. The Company recorded the \$0.4 million of OTTI due to an adverse change in cash flows where the fair values of the securities were less than their carrying amounts. The \$0.4 million related to non-performing loan pools with an unpaid principal balance of \$9.4 million and an average fair market value of \$6.6 million and \$8.2 million for the three and nine months ended September 30, 2017, respectively.

As of September 30, 2018 and December 31, 2017 the Company had residential mortgage loans that were in the process of foreclosure with a fair value of \$11.9 million and \$9.1 million, respectively.

The Company's mortgage loan portfolio consisted of mortgage loans on residential real estate located throughout the U.S. The following is a summary of the geographic concentration of credit risk within the Company's mortgage loan portfolio:

Geographic Concentration of Credit Risk	September 30, 2018	December 31, 2017
Percentage of fair value of mortgage loans secured by properties in the following states:		
Representing 5% or more of fair value:		
California	27%	7%
New York	9%	37%
Florida	8%	1%
New Jersey	5%	6%
Maryland	4%	7%

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The Company records interest income on a level-yield basis. The accretable discount is determined by the excess of the Company's estimate of undiscounted principal, interest, and other cash flows expected to be collected over its initial investment in the mortgage loan. The following is a summary of the changes in the accretable portion of discounts for the three and nine months ended September 30, 2018 and September 30, 2017, respectively (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2018	September 30, 2017	September 30, 2018	September 30, 2017
Beginning Balance	\$ 45,050	\$ 10,342	\$ 9,318	\$ 18,281
Additions	—	—	36,443	—
Accretion	(1,492)	(506)	(2,525)	(1,968)
Reclassifications from/(to) non-accretable difference	(606)	1,476	1,215	4,858
Disposals	(2,231)	—	(3,730)	(9,859)
Ending Balance	\$ 40,721	\$ 11,312	\$ 40,721	\$ 11,312

As of September 30, 2018, the Company's residential mortgage loan portfolio was comprised of 601 conventional loans with original loan balances between \$10,000 and \$1.9 million.

As of December 31, 2017, the Company's residential mortgage loan portfolio was comprised of 125 conventional loans with original loan balances between \$9,000 and \$1.1 million.

For the three months ended September 30, 2018, the Company sold 13 loans for total proceeds of \$2.5 million, with an additional \$1.1 million on 7 unsettled loan sales as of quarter end, recording realized gains of \$0.8 million and realized losses of \$(34.2) thousand. For the nine months ended September 30, 2018, the Company sold 163 loans for total proceeds of \$33.5 million, with an additional \$1.1 million on 7 unsettled loan sales as of quarter end, recording realized gains of \$1.5 million and realized losses of \$(0.1) million. There were no sales for the three months ended September 30, 2017. For the nine months ended September 30, 2017, the Company sold 66 loans for total proceeds of \$10.2 million, recording realized gains of \$2.6 million and realized losses of \$0.3 million. In addition, for the three and nine months ended September 30, 2017, the Company received \$3.6 million of proceeds from sold loans which were unsettled at December 31, 2016.

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Commercial loans

The following table presents detail on the Company's commercial loan portfolio on September 30, 2018 (in thousands).

Loan (2)	Current Face	Premium (Discount)	Amortized Cost	Gross Unrealized (1)			Weighted Average			Initial Stated Maturity Date	Extended Maturity Date (5)	Location
				Gains	Losses	Fair Value	Coupon (3)	Yield	Life (Years) (4)			
Loan B (6)	\$ 32,800	\$ —	\$ 32,800	\$ —	\$ —	\$ 32,800	6.87%	7.25%	0.78	July 1, 2016	July 1, 2019	TX
Loan F (7)	10,417	(7)	10,410	7	—	10,417	13.13%	14.05%	0.19	September 9, 2018	September 9, 2019	MN
Loan G (8)	15,401	—	15,401	—	—	15,401	6.88%	6.88%	1.80	July 9, 2020	July 9, 2022	CA
Loan H (9)	36,000	—	36,000	—	—	36,000	5.91%	5.91%	1.46	March 9, 2019	March 9, 2020	AZ
	\$ 94,618	\$ (7)	\$ 94,611	\$ 7	\$ —	\$ 94,618	7.20%	7.59%	1.14			

- (1) The Company has chosen to make a fair value election pursuant to ASC 825 for its loan portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on real estate securities and loans, net" line item. The gross unrealized columns above represent inception to date unrealized gains (losses).
- (2) The Company has the contractual right to receive a balloon payment for each loan.
- (3) Each commercial loan investment has a variable coupon rate.
- (4) Actual maturities of commercial mortgage loans may be shorter than stated contractual maturities. Maturities are affected by prepayments of principal.
- (5) Represents the maturity date of the last possible extension option.
- (6) Loan B is comprised of a first mortgage and mezzanine loan of \$31.8 million and \$1.0 million, respectively. As of September 30, 2018, Loan B has been extended to the extended maturity date shown above.
- (7) Loan F is a mezzanine loan of up to \$14.6 million, of which \$10.4 million has been advanced. As of the stated maturity date above, Loan F has been extended to December 2018.
- (8) Loan G is a first mortgage of up to \$75.0 million, of which \$15.4 million has been advanced.
- (9) Loan H is a first mortgage of up to \$36.0 million, all of which has been advanced.

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The following table presents detail on the Company's commercial loan portfolio on December 31, 2017 (in thousands).

Loan (2)	Current Face	Premium (Discount)	Amortized Cost	Gross Unrealized (1)			Weighted Average			Initial Stated Maturity Date	Extended Maturity Date (5)	Location
				Gains	Losses	Fair Value	Coupon (3)	Yield	Life (Years) (4)			
Loan B (6)	\$ 32,800	\$ —	\$ 32,800	\$ —	\$ —	\$ 32,800	6.14%	6.52%	1.53	July 1, 2016	July 1, 2019	TX
Loan E (7)	14,521	(1,028)	13,493	810	—	14,303	9.83%	12.70%	3.01	April 9, 2017	April 9, 2021	Various
Loan F (8)	10,417	(76)	10,341	77	—	10,418	12.43%	13.98%	0.70	September 9, 2018	September 9, 2019	MN
	\$ 57,738	\$ (1,104)	\$ 56,634	\$ 887	\$ —	\$ 57,521	8.20%	9.41%	1.76			

- (1) The Company has chosen to make a fair value election pursuant to ASC 825 for its loan portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on real estate securities and loans, net" line item. The gross unrealized columns above represent inception to date unrealized gains (losses).
- (2) The Company has the contractual right to receive a balloon payment for each loan.
- (3) Each commercial loan investment has a variable coupon rate.
- (4) Actual maturities of commercial mortgage loans may be shorter than stated contractual maturities. Maturities are affected by prepayments of principal.
- (5) Represents the maturity date of the last possible extension option.
- (6) Loan B is comprised of a first mortgage and mezzanine loan of \$31.8 million and \$1.0 million, respectively. As of December 31, 2017, Loan B has been extended to the extended maturity date shown above.
- (7) Loan E is a mezzanine loan. As of December 31, 2017, Loan E has been extended to April 9, 2018. Loan E paid off at par in Q2 2018, with the Company receiving \$14.5 million of principal proceeds.
- (8) Loan F is a mezzanine loan of up to \$14.6 million, of which \$10.4 million has been advanced.

In February 2016, the Company originated a \$12.0 million commercial loan and, at closing, transferred a 15.0%, or \$1.8 million, participation interest in the loan (the "Participation Interest") to an unaffiliated third party. The Participation Interest did not meet the sales criteria established under ASC 860; therefore, the entire commercial loan has been recorded as an asset in the "Commercial loans, at fair value" line item on the Company's consolidated balance sheets, referred to in the above table as "Loan D." The weighted average coupon and yield on the commercial loan was 10.62% and 14.33%, respectively, at December 31, 2016. A \$1.8 million liability was recorded in the "Loan participation payable, at fair value" line item on the Company's consolidated balance sheets representing the transfer of the Participation Interest. The Company recorded the origination of the commercial loan in the "Cash Flows from Investing Activities" section and the proceeds from the transfer in the "Cash Flows from Financing Activities" section of the consolidated statement of cash flows. The weighted average coupon and yield on the Participation Interest was 10.62% and 21.70%, respectively, at December 31, 2016. In February 2017, the Company received \$12.0 million of proceeds from the pay-off of Loan D. The principal and interest due on the Participation Interest was paid from these proceeds.

During the three and nine months ended September 30, 2018, the Company recorded \$10,665 and \$1.1 million of discount accretion, respectively, on its commercial loans. The decrease in discount accretion is a result of the recognition of most of the outstanding discount on Loan E, which paid off at par in April 2018 and for which the Company received \$14.5 million of principal proceeds. During the three and nine months ended September 30, 2017, the Company recorded \$0.1 million and \$0.3 million of discount accretion, respectively, on its commercial loans.

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5. Excess MSR

The following table presents detail on the Company's Excess MSR portfolio on September 30, 2018 (in thousands).

	Unpaid Principal Balance	Amortized Cost	Gross Unrealized (1)		Fair Value	Weighted Average	
			Gains	Losses		Yield	Life (Years) (2)
Agency Excess MSRs	\$ 3,665,174	\$ 27,449	\$ 1,486	\$ (544)	\$ 28,391	11.30%	7.03
Credit Excess MSRs	43,025	228	12	(6)	234	23.85%	4.96
Total Excess MSRs	\$ 3,708,199	\$ 27,677	\$ 1,498	\$ (550)	\$ 28,625	11.47%	7.01

- (1) The Company has chosen to make a fair value election pursuant to ASC 825 for its Excess MSR portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on derivative and other instruments, net" line item. The gross unrealized columns above represent inception to date unrealized gains (losses).
- (2) Actual maturities of Excess MSRs may be shorter than stated contractual maturities. Maturities are affected by prepayments of principal.

The following table presents detail on the Company's Excess MSR portfolio on December 31, 2017 (in thousands).

	Unpaid Principal Balance	Amortized Cost	Gross Unrealized (1)		Fair Value	Weighted Average	
			Gains	Losses		Yield	Life (Years) (2)
Agency Excess MSRs	\$ 768,385	\$ 4,479	\$ 333	\$ (11)	\$ 4,801	12.23%	6.30
Credit Excess MSRs	50,308	259	24	—	283	21.87%	5.00
Total Excess MSRs	\$ 818,693	\$ 4,738	\$ 357	\$ (11)	\$ 5,084	12.76%	6.20

- (1) The Company has chosen to make a fair value election pursuant to ASC 825 for its Excess MSR portfolio. Unrealized gains and losses are recognized in current period earnings in the "Unrealized gain/(loss) on derivative and other instruments, net" line item. The gross unrealized columns above represent inception to date unrealized gains (losses).
- (2) Actual maturities of Excess MSRs may be shorter than stated contractual maturities. Maturities are affected by prepayments of principal.

As described in Note 2, the Company evaluates securities for OTTI on at least a quarterly basis. The determination of whether an excess MSR is other-than-temporarily impaired involves judgments and assumptions based on subjective and objective factors. When the fair value of an Excess MSR is less than its amortized cost at the balance sheet date, the Excess MSR is considered impaired, and the impairment is designated as either "temporary" or "other-than-temporary." No OTTI was recorded for the three and nine months ended September 30, 2018 or the three and nine months ended September 30, 2017.

6. Single-family rental properties

In September 2018, the Company purchased 1,225 single-family rental properties for \$140.1 million. The Company also financed the portfolio with \$103 million of 5-year, fixed rate debt.

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The following table presents the net carrying amount associated with the Company's properties by component (in thousands).

	September 30, 2018	
Land	\$	29,182
Building		109,271
In-place lease intangibles		2,100
Single-family rental properties		140,553
Less: Accumulated depreciation and amortization		(494)
Single-family rental properties, net	\$	140,059

As of September 30, 2018, the carrying amount of the properties included \$1.0 million of capitalized acquisition costs.

During the three and nine months ended September 30, 2018, the Company recognized \$0.2 million of depreciation expense related to components of the properties. We also recognized \$0.3 million of amortization related to in-place lease intangible assets. As the weighted average life of the in-place lease intangibles is 7.4 months, the Company expects to fully amortize these assets over that time period. These amounts are included in the "Property depreciation and amortization" line item in the consolidated statement of operations. Additionally, there was no impairment recognized during the three and nine months ended September 30, 2018.

The following table presents a schedule of non-cancellable, contractual, future minimum rent under leases at September 30, 2018 (in thousands). These rental payments are based on income recognition.

Period Ending December 31,	Amount	
2018 (last 3 months)	\$	2,660
2019		3,642
2020		37
2021		—
2022		—
Thereafter		—
Total	\$	6,339

7. Fair value measurements

As described in Note 2, the fair value of financial instruments that are recorded at fair value will be determined by the Manager, subject to oversight of the Company's board of directors, and in accordance with ASC 820, "Fair Value Measurements and Disclosures." When possible, the Company determines fair value using independent data sources. ASC 820 establishes a hierarchy that prioritizes the inputs to valuation techniques giving the highest priority to readily available unadjusted quoted prices in active markets for identical assets (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements) when market prices are not readily available or reliable.

Values for the Company's securities, Excess MSRs, securitized debt, derivatives and U.S. Treasury securities are based upon prices obtained from third party pricing services, which are indicative of market activity. The fair value of the Company's obligation to return securities borrowed under reverse repurchase agreements is based upon the value of the underlying borrowed U.S. Treasury securities as of the reporting date. The evaluation methodology of the Company's third-party pricing services incorporates commonly used market pricing methods, including a spread measurement to various indices such as the one-year constant maturity treasury and LIBOR, which are observable inputs. The evaluation also considers the underlying characteristics of each investment, which are also observable inputs, including: coupon; maturity date; loan age; reset date; collateral type; periodic and life cap; geography; and prepayment speeds. The Company collects and considers current market intelligence on all major markets, including benchmark security evaluations and bid-lists from various sources, when available. As part of the Company's risk management process, the Company reviews and analyzes all prices obtained by comparing prices to recently completed transactions involving the same or similar investments on or near the reporting date. If, in the opinion of the Manager, one or more prices reported to the Company are not reliable or unavailable, the Manager reviews the fair value based on characteristics of the investment it receives from the issuer and available market information.

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In valuing its derivatives, the Company considers the creditworthiness of both the Company and its counterparties, along with collateral provisions contained in each derivative agreement, from the perspective of both the Company and its counterparties. All of the Company's derivatives are either subject to bilateral collateral arrangements or clearing in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd Frank Act"). For swaps cleared under the Dodd Frank Act, a Central Counterparty Clearing House ("CCP") now stands between the Company and the over-the-counter derivative counterparties. In order to access clearing, the Company has entered into clearing agreements with Futures Commissions Merchants ("FCMs").

Beginning in the first quarter of 2017, as a result of a CME amendment to its rule book governing central clearing activities, the daily exchange of variation margin associated with a CME centrally cleared derivative instrument is legally characterized as the daily settlement of the derivative instrument itself, as opposed to a pledge of collateral. Accordingly, beginning in 2017, the Company accounts for the daily receipt or payment of variation margin associated with its centrally cleared interest rate swaps and futures as a direct reduction to the carrying value of the interest rate swap and future derivative asset or liability, respectively. Beginning in 2017, the carrying amount of centrally cleared interest rate swaps and futures reflected in the Company's consolidated balance sheets is equal to the unsettled fair value of such instruments. See Note 9 for more information.

The fair value of the Company's mortgage loans and loan participation considers data such as loan origination information, additional updated borrower information, loan servicing data, as available, forward interest rates, general economic conditions, home price index forecasts and valuations of the underlying properties. The variables considered most significant to the determination of the fair value of the Company's mortgage loans include market-implied discount rates, projections of default rates, delinquency rates, prepayment rates and loss severity (considering mortgage insurance). Projections of default and prepayment rates are impacted by other variables such as reperformance rates and timeline to liquidation. The Company uses loan level data and macro-economic inputs to generate loss adjusted cash flows and other information in determining the fair value of its mortgage loans. Because of the inherent uncertainty of such valuation, the fair values established for mortgage loans held by the Company may differ from the fair values that would have been established if a ready market existed for these mortgage loans. Accordingly, mortgage loans are classified as Level 3 in the fair value hierarchy.

The Manager may also engage specialized third party valuation service providers to assess and corroborate the valuation of a selection of investments in the Company's loan portfolio on a periodic basis. These specialized third party valuation service providers conduct independent valuation analyses based on a review of source documents, available market data, and comparable investments. The analyses provided by valuation service providers are reviewed and considered by the Manager.

TBA instruments are similar in form to the Company's Agency RMBS portfolio, and the Company therefore estimates fair value based on similar methods.

Cash equivalents include investments in money market funds that invest primarily in short-term U.S. Treasury and Agency securities. These cash equivalent instruments are valued at their market quoted prices, which generally approximate cost plus accrued interest and are generally categorized as Level 1.

The Company entered into a securitization transaction that resulted in the Company consolidating a VIE created with the SPE which was used to facilitate the transaction. The Company categorizes the fair value measurement of the consolidated tranche as Level 3.

In December 2015, the Company, alongside private funds under the management of Angelo Gordon, through AG Arc, formed Arc Home. The Company invests in Arc Home through AG Arc. In June 2016, Arc Home closed on the acquisition of a Fannie Mae, Freddie Mac, FHA, VA and Ginnie Mae seller/servicer of residential mortgages. Through this subsidiary, Arc Home originates conforming, Government, Jumbo and other non-conforming residential mortgage loans, retains the mortgage servicing rights associated with the loans it originates, and purchases additional mortgage servicing rights from third-party sellers. As a result of this acquisition, the Company transferred its investment in AG Arc from Level 1 into Level 3.

In February 2016, the Company originated a \$12.0 million commercial loan and transferred a 15% participation interest in the loan to an unaffiliated third party. The Company categorizes the fair value measurement of the commercial loan and consolidated participation interest as Level 3. The commercial loan was paid off in full in February 2017.

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The following table presents the Company's financial instruments measured at fair value as of September 30, 2018 (in thousands):

	Fair Value at September 30, 2018			
	Level 1	Level 2	Level 3	Total
Assets:				
Agency RMBS:				
30 Year Fixed Rate	\$ —	\$ 1,762,469	\$ —	\$ 1,762,469
Fixed Rate CMO	—	45,323	—	45,323
ARM	—	105,821	—	105,821
Interest Only	—	118,102	—	118,102
Credit Investments:				
Non-Agency RMBS	—	117,350	593,645	710,995
Non-Agency RMBS Interest Only	—	—	3,860	3,860
ABS	—	—	37,544	37,544
CMBS	—	—	235,352	235,352
CMBS Interest Only	—	—	50,697	50,697
Residential mortgage loans	—	—	87,600	87,600
Commercial loans	—	—	94,618	94,618
Excess mortgage servicing rights	—	—	28,625	28,625
Cash equivalents	14,697	—	—	14,697
Derivative assets	—	4,887	—	4,887
AG Arc	—	—	23,068	23,068
Total Assets Measured at Fair Value	\$ 14,697	\$ 2,153,952	\$ 1,155,009	\$ 3,323,658
Liabilities:				
Securitized debt	\$ —	\$ —	\$ (11,481)	\$ (11,481)
Securities borrowed under reverse repurchase agreements	—	(5,730)	—	(5,730)
Derivative liabilities	—	(1,030)	—	(1,030)
Total Liabilities Measured at Fair Value	\$ —	\$ (6,760)	\$ (11,481)	\$ (18,241)

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The following table presents the Company's financial instruments measured at fair value as of December 31, 2017 (in thousands):

	Fair Value at December 31, 2017			
	Level 1	Level 2	Level 3	Total
Assets:				
Agency RMBS:				
30 Year Fixed Rate	\$ —	\$ 1,929,033	\$ —	\$ 1,929,033
Fixed Rate CMO	—	52,951	—	52,951
ARM	—	176,387	—	176,387
Interest Only	—	88,790	—	88,790
Credit Investments:				
Non-Agency RMBS	—	156,170	845,424	1,001,594
Non-Agency RMBS Interest Only	—	—	2,662	2,662
ABS	—	—	40,958	40,958
CMBS	—	8,217	161,250	169,467
CMBS Interest Only	—	—	50,702	50,702
Residential mortgage loans	—	—	18,890	18,890
Commercial loans	—	—	57,521	57,521
Excess mortgage servicing rights	—	—	5,084	5,084
Derivative assets	110	2,017	—	2,127
AG Arc	—	—	17,911	17,911
Total Assets Measured at Fair Value	\$ 110	\$ 2,413,565	\$ 1,200,402	\$ 3,614,077
Liabilities:				
Securitized debt	\$ —	\$ —	\$ (16,478)	\$ (16,478)
Securities borrowed under reverse repurchase agreements	—	(24,379)	—	(24,379)
Derivative liabilities	—	(450)	—	(450)
Total Liabilities Measured at Fair Value	\$ —	\$ (24,829)	\$ (16,478)	\$ (41,307)

The Company did not have any transfers of assets or liabilities between Levels 1 and 2 of the fair value hierarchy during the three and nine months ended September 30, 2018 and September 30, 2017.

Refer to the tables below for details on transfers between the Level 3 and Level 2 categories under ASC 820. Transfers into the Level 3 category of the fair value hierarchy occur due to instruments exhibiting indications of reduced levels of market transparency. Transfers out of the Level 3 category of the fair value hierarchy occur due to instruments exhibiting indications of increased levels of market transparency. Indications of increases or decreases in levels of market transparency include a change in observable transactions or executable quotes involving these instruments or similar instruments. Changes in these indications could impact price transparency, and thereby cause a change in level designations in future periods.

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The following tables present additional information about the Company's assets and liabilities which are measured at fair value on a recurring basis for which the Company has utilized Level 3 inputs to determine fair value:

Three Months Ended
September 30, 2018
(in thousands)

	Non-Agency RMBS	Non-Agency RMBS Interest Only	ABS	CMBS	CMBS Interest Only	Residential Mortgage Loans	Commercial Loans	Excess Mortgage Servicing Rights	AG Arc	Securitized debt
Beginning balance	\$ 786,108	\$ 2,871	\$ 37,755	\$ 159,832	\$ 43,182	\$ 93,129	\$ 43,217	\$ 29,282	\$ 18,353	\$ (13,984)
Transfers (1):										
Transfers into level 3	—	—	—	8,217	—	—	—	—	—	—
Transfers out of level 3	(97,349)	—	—	—	—	—	—	—	—	—
Purchases/Transfers	3,807	—	303	57,427	10,437	149	51,401	—	—	—
Capital contributions	—	—	—	—	—	—	—	—	4,459	—
Proceeds from sales/redemptions	(53,018)	—	—	—	(742)	(3,821)	—	—	—	—
Proceeds from settlement	(45,361)	—	(386)	(4,500)	—	(1,774)	—	(12)	—	2,470
Total net gains/(losses) (2)										
Included in net income	(542)	989	(128)	14,376	(2,180)	(83)	—	(645)	256	33
Ending Balance	\$ 593,645	\$ 3,860	\$ 37,544	\$ 235,352	\$ 50,697	\$ 87,600	\$ 94,618	\$ 28,625	\$ 23,068	\$ (11,481)

Change in unrealized appreciation/(depreciation) for level 3 assets/liabilities still held as of September 30, 2018 (3)	\$ 2,876	\$ 1,011	\$ (128)	\$ 14,376	\$ (2,083)	\$ (195)	\$ —	\$ (646)	\$ 256	\$ 34
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(1) Transfers are assumed to occur at the beginning of the period. During the three months ended September 30, 2018, the Company transferred 2 CMBS securities into the Level 3 category from the Level 2 category and 14 Non-Agency RMBS securities into the Level 2 category from the Level 3 category under the fair value hierarchy of ASC 820.

(2) Gains/(losses) are recorded in the following line items in the consolidated statement of operations:

Unrealized gain/(loss) on real estate securities and loans, net	\$ 14,368
Unrealized gain/(loss) on derivative and other instruments, net	(612)
Net realized gain/(loss)	(1,936)
Equity in earnings/(loss) from affiliates	256
Total	\$ 12,076

(3) Unrealized gains/(losses) are recorded in the following line items in the consolidated statement of operations:

Unrealized gain/(loss) on real estate securities and loans, net	\$ 15,857
Unrealized gain/(loss) on derivative and other instruments, net	(612)
Equity in earnings/(loss) from affiliates	256
Total	\$ 15,501

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Three Months Ended
September 30, 2017
(in thousands)

	Non-Agency RMBS	Non-Agency RMBS Interest Only	ABS	CMBS	CMBS Interest Only	Residential Mortgage Loans	Commercial Loans	Excess Mortgage Servicing Rights	AG Arc	Securitized debt
Beginning balance	\$ 863,021	\$ 3,213	\$ 47,917	\$ 137,658	\$ 52,806	\$ 23,455	\$ 57,294	\$ 2,787	\$ 17,713	\$ (18,778)
Transfers (1):										
Transfers into level 3	83,490	—	—	8,460	—	—	—	—	—	—
Purchases/Transfers	137,744	—	5,601	20,191	—	—	—	13	—	—
Capital contributions	—	—	—	—	—	—	—	—	—	—
Proceeds from sales/redemptions	(297,784)	—	—	—	—	—	—	—	—	—
Proceeds from settlement	(26,789)	—	(211)	(20,512)	—	(272)	—	(127)	—	1,563
Total net gains/(losses) (2)										
Included in net income	14,549	(351)	(83)	70	(834)	685	104	8	111	(6)
Ending Balance	\$ 774,231	\$ 2,862	\$ 53,224	\$ 145,867	\$ 51,972	\$ 23,868	\$ 57,398	\$ 2,681	\$ 17,824	\$ (17,221)

Change in unrealized appreciation/(depreciation) for level 3 assets/liabilities still held as of September 30, 2017 (3)

	\$ 12,110	\$ (84)	\$ (83)	\$ (153)	\$ (834)	\$ 826	\$ 104	\$ 8	\$ 112	\$ (6)
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(1) Transfers are assumed to occur at the beginning of the period. During the three months ended September 30, 2017, the Company transferred 9 Non-Agency RMBS securities and 1 CMBS security into the Level 3 category from the Level 2 category under the fair value hierarchy of ASC 820.

(2) Gains/(losses) are recorded in the following line items in the consolidated statement of operations:

Unrealized gain/(loss) on real estate securities and loans, net	\$ 13,630
Unrealized gain/(loss) on derivative and other instruments, net	(6)
Net realized gain/(loss)	517
Equity in earnings/(loss) from affiliates	112
Total	\$ 14,253

(3) Unrealized gains/(losses) are recorded in the following line items in the consolidated statement of operations:

Unrealized gain/(loss) on real estate securities and loans, net	\$ 11,894
Unrealized gain/(loss) on derivative and other instruments, net	(6)
Equity in earnings/(loss) from affiliates	112
Total	\$ 12,000

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Nine Months Ended
September 30, 2018
(in thousands)

	Non-Agency RMBS	Non-Agency RMBS Interest Only	ABS	CMBS	CMBS Interest Only	Residential Mortgage Loans	Commercial Loans	Excess Mortgage Servicing Rights	AG Arc	Securitized debt
Beginning balance	\$ 845,424	\$ 2,662	\$ 40,958	\$ 161,250	\$ 50,702	\$ 18,890	\$ 57,521	\$ 5,084	\$ 17,911	\$ (16,478)
Transfers (1):										
Transfers into level 3	69,260	—	—	8,217	—	—	—	—	—	—
Transfers out of level 3	(64,623)	—	—	(6,951)	—	—	—	—	—	—
Purchases/Transfers	97,683	—	5,899	113,683	10,436	105,190	51,401	25,162	—	—
Capital contributions	—	—	—	—	—	—	—	—	4,459	—
Proceeds from sales/redemptions	(237,822)	—	—	—	(5,400)	(34,653)	—	—	—	—
Proceeds from settlement	(114,924)	—	(9,097)	(53,645)	—	(3,030)	(14,522)	(524)	—	4,952
Total net gains/(losses) (2)										
Included in net income	(1,353)	1,198	(216)	12,798	(5,041)	1,203	218	(1,097)	698	45
Ending Balance	\$ 593,645	\$ 3,860	\$ 37,544	\$ 235,352	\$ 50,697	\$ 87,600	\$ 94,618	\$ 28,625	\$ 23,068	\$ (11,481)

Change in unrealized appreciation/(depreciation) for level 3 assets/liabilities still held as of September 30, 2018 (3)	\$ 1,179	\$ 1,241	\$ (197)	\$ 12,725	\$ (4,711)	\$ 389	\$ —	\$ (1,097)	\$ 698	\$ 45
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(1) Transfers are assumed to occur at the beginning of the period. During the nine months ended September 30, 2018, the Company transferred 5 Non-Agency RMBS securities and 2 CMBS securities into the Level 3 category from the Level 2 category and 14 Non-Agency RMBS securities and 1 CMBS security into the Level 2 category from the Level 3 category under the fair value hierarchy of ASC 820.

(2) Gains/(losses) are recorded in the following line items in the consolidated statement of operations:

Unrealized gain/(loss) on real estate securities and loans, net	\$ 5,273
Unrealized gain/(loss) on derivative and other instruments, net	(1,052)
Net realized gain/(loss)	3,534
Equity in earnings/(loss) from affiliates	698
Total	\$ 8,453

(3) Unrealized gains/(losses) are recorded in the following line items in the consolidated statement of operations:

Unrealized gain/(loss) on real estate securities and loans, net	\$ 10,626
Unrealized gain/(loss) on derivative and other instruments, net	(1,052)
Equity in earnings/(loss) from affiliates	698
Total	\$ 10,272

AG Mortgage Investment Trust Inc. and Subsidiaries
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Nine Months Ended
September 30, 2017
(in thousands)

	Non-Agency RMBS	Non-Agency RMBS Interest Only	ABS	CMBS	CMBS Interest Only	Residential Mortgage Loans	Commercial Loans	Excess Mortgage Servicing Rights	AG Arc	Securitized debt	Loan Participation payable
Beginning balance	\$ 717,761	\$ 3,761	\$ 21,232	\$ 130,790	\$ 52,137	\$ 38,196	\$ 60,069	\$ 413	\$ 12,895	\$ (21,492)	\$ (1,800)
Transfers (1):											
Transfers into level 3	203,851	—	—	8,460	—	—	—	—	—	—	—
Transfers out of level 3	(51,307)	—	—	—	—	—	—	—	—	—	—
Purchases/Transfers	395,021	—	52,049	38,760	—	—	10,271	2,578	—	—	—
Capital contributions	—	—	—	—	—	—	—	—	4,459	—	—
Proceeds from sales/redemptions	(382,544)	—	(16,977)	(4,534)	—	(10,103)	—	—	—	—	—
Proceeds from settlement	(142,166)	—	(4,196)	(29,106)	—	(5,570)	(13,534)	(314)	—	4,311	1,955
Total net gains/(losses) (2)											
Included in net income	33,615	(899)	1,116	1,497	(165)	1,345	592	4	470	(40)	(155)
Ending Balance	\$ 774,231	\$ 2,862	\$ 53,224	\$ 145,867	\$ 51,972	\$ 23,868	\$ 57,398	\$ 2,681	\$ 17,824	\$ (17,221)	\$ —

Change in unrealized
appreciation/(depreciation)
for level 3 assets still held
as of September 30, 2017

(3) \$ 32,503 \$ (632) \$ 660 \$ 1,705 \$ (165) \$ (576) \$ 537 \$ 4 \$ 470 \$ (40) \$ —

(1) Transfers are assumed to occur at the beginning of the period. During the nine months ended September 30, 2017, the Company transferred 18 Non-Agency RMBS securities and 1 CMBS security into the Level 3 category from the Level 2 category and 5 Non-Agency RMBS securities into the Level 2 category from the Level 3 category under the fair value hierarchy of ASC 820.

(2) Gains/(losses) are recorded in the following line items in the consolidated statement of operations:

Unrealized gain/(loss) on real estate securities and loans, net	\$ 37,250
Unrealized gain/(loss) on derivative and other instruments, net	(195)
Net realized gain/(loss)	(144)
Equity in earnings/(loss) from affiliates	470
Total	\$ 37,381
(3) Gains/(losses) are recorded in the following line items in the consolidated statement of operations:	
Unrealized gain/(loss) on real estate securities and loans, net	\$ 34,036
Unrealized gain/(loss) on derivative and other instruments, net	(40)
Equity in earnings/(loss) from affiliates	470
Total	\$ 34,466

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The following tables present a summary of quantitative information about the significant unobservable inputs used in the fair value measurement of investments for which the Company has utilized Level 3 inputs to determine fair value.

Asset Class	Fair Value at September 30, 2018 (in thousands)	Valuation Technique	Unobservable Input	Range (Weighted Average)
Non-Agency RMBS	\$ 579,852	Discounted Cash Flow	Yield	2.79% - 11.01% (4.67%)
			Projected Collateral Prepayments	0.00% - 25.00% (11.72%)
			Projected Collateral Losses	0.00% - 30.00% (2.39%)
			Projected Collateral Severities	-0.61% - 100.00% (29.99%)
	\$ 13,793	Consensus Pricing	Offered Quotes	92.50 - 93.06 (92.72)
Non-Agency RMBS Interest Only	\$ 3,860	Discounted Cash Flow	Yield	7.00% - 35.00% (28.15%)
			Projected Collateral Prepayments	9.50% - 18.00% (15.51%)
			Projected Collateral Losses	0.75% - 2.00% (1.48%)
			Projected Collateral Severities	10.00% - 65.00% (18.52%)
ABS	\$ 32,411	Discounted Cash Flow	Yield	6.38% - 6.38% (6.38%)
			Projected Collateral Prepayments	20.00% - 40.00% (23.71%)
			Projected Collateral Losses	0.00% - 2.00% (1.67%)
			Projected Collateral Severities	0.00% - 50.00% (41.80%)
	\$ 5,133	Consensus Pricing	Offered Quotes	100.00 - 100.00 (100.00)
CMBS	\$ 232,461	Discounted Cash Flow	Yield	5.49% - 64.88% (8.82%)
			Projected Collateral Prepayments	0.00% - 0.00% (0.00%)
			Projected Collateral Losses	0.00% - 0.50% (0.02%)
			Projected Collateral Severities	0.00% - 25.00% (0.96%)
	\$ 2,891	Consensus Pricing	Offered Quotes	4.86 - 8.88 (7.87)
CMBS Interest Only	\$ 50,697	Discounted Cash Flow	Yield	3.71% - 10.61% (5.20%)
			Projected Collateral Prepayments	99.00% - 100.00% (99.92%)
			Projected Collateral Losses	0.00% - 0.00% (0.00%)
			Projected Collateral Severities	0.00% - 0.00% (0.00%)
Residential Mortgage Loans	\$ 13,058	Discounted Cash Flow	Yield	7.00% - 9.00% (8.80%)
			Projected Collateral Prepayments	4.78% - 5.04% (4.85%)
			Projected Collateral Losses	3.31% - 5.81% (4.43%)
			Projected Collateral Severities	6.89% - 26.78% (16.23%)
	\$ 74,542	Recent Transaction	Cost	N/A
Commercial Loans	\$ 32,800	Discounted Cash Flow	Yield	7.25% - 7.25% (7.25%)
			Credit Spread	4.75 bps - 4.75 bps (4.75 bps)
			Recovery Percentage (1)	100.00% - 100.00% (100.00%)
	\$ 61,818	Consensus Pricing	Offered Quotes	100.00 - 100.00 (100.00)
Excess Mortgage Servicing Rights	\$ 28,391	Discounted Cash Flow	Yield	8.50% - 11.55% (9.18%)
			Projected Collateral Prepayments	6.15% - 9.82% (7.83%)
	\$ 234	Consensus Pricing	Offered Quotes	0.03 - 0.52 (0.49)
AG Arc	\$ 23,068	Comparable Multiple	Book Value Multiple	1.0x - 1.0x (1.0x)

Liability Class	Fair Value at September 30, 2018 (in thousands)	Valuation Technique	Unobservable Input	Range (Weighted Average)
Securitized debt	\$ (11,481)	Discounted Cash Flow	Yield	4.16% - 4.16% (4.16%)
			Projected Collateral Prepayments	10.00% - 10.00% (10.00%)
			Projected Collateral Losses	3.50% - 3.50% (3.50%)
			Projected Collateral Severities	45.00% - 45.00% (45.00%)

(1) Represents the proportion of the principal expected to be collected relative to the loan balances as of September 30, 2018.

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Asset Class	Fair Value at December 31, 2017 (in thousands)	Valuation Technique	Unobservable Input	Range (Weighted Average)
Non-Agency RMBS	\$ 783,881	Discounted Cash Flow	Yield	0.94% - 31.75% (4.49%)
			Projected Collateral Prepayments	0.00% - 35.00% (10.50%)
			Projected Collateral Losses	0.00% - 50.00% (3.25%)
			Projected Collateral Severities	0.00% - 100.00% (34.77%)
	\$ 14,794	Consensus Pricing	Offered Quotes	74.75 - 74.75 (74.75)
	\$ 46,749	Recent Transaction	Recent Transaction	N/A
Non-Agency RMBS Interest Only	\$ 2,662	Discounted Cash Flow	Yield	7.00% - 25.00% (22.34%)
			Projected Collateral Prepayments	10.50% - 18.00% (16.89%)
			Projected Collateral Losses	1.50% - 2.00% (1.57%)
			Projected Collateral Severities	10.00% - 40.00% (14.43%)
ABS	\$ 40,958	Discounted Cash Flow	Yield	4.62% - 9.83% (7.56%)
			Projected Collateral Prepayments	20.00% - 40.00% (22.62%)
			Projected Collateral Losses	0.00% - 2.00% (1.74%)
			Projected Collateral Severities	0.00% - 50.00% (43.45%)
CMBS	\$ 157,685	Discounted Cash Flow	Yield	-1.45% - 8.35% (6.24%)
			Projected Collateral Prepayments	0.00% - 0.00% (0.00%)
			Projected Collateral Losses	0.00% - 0.00% (0.00%)
			Projected Collateral Severities	0.00% - 0.00% (0.00%)
	\$ 3,565	Consensus Pricing	Offered Quotes	6.20 - 7.60 (7.12)
CMBS Interest Only	\$ 50,702	Discounted Cash Flow	Yield	2.93% - 5.90% (4.43%)
			Projected Collateral Prepayments	100.00% - 100.00% (100.00%)
			Projected Collateral Losses	0.00% - 0.00% (0.00%)
			Projected Collateral Severities	0.00% - 0.00% (0.00%)
Residential Mortgage Loans	\$ 18,890	Discounted Cash Flow	Yield	6.25% - 9.00% (7.81%)
			Projected Collateral Prepayments	2.98% - 5.05% (3.93%)
			Projected Collateral Losses	3.88% - 6.91% (4.27%)
			Projected Collateral Severities	20.21% - 37.25% (22.00%)
Commercial Loans	\$ 32,800	Discounted Cash Flow	Yield	6.52% - 6.52% (6.52%)
			Credit Spread	4.75 bps - 4.75 bps (4.75 bps)
			Recovery Percentage (1)	100.00% - 100.00% (100.00%)
				\$ 24,721
Excess Mortgage Servicing Rights	\$ 4,801	Discounted Cash Flow	Yield	9.12% - 11.74% (10.29%)
			Projected Collateral Prepayments	7.59% - 11.85% (9.67%)
	\$ 283	Consensus Pricing	Offered Quotes	0.04 - 0.52 (0.48)
AG Arc	\$ 17,911	Comparable Multiple	Book Value Multiple	1.0x - 1.0x (1.0x)

Liability Class	Fair Value at December 31, 2017 (in thousands)	Valuation Technique	Unobservable Input	Range (Weighted Average)
Securitized debt	\$ (16,478)	Discounted Cash Flow	Yield	3.23% - 3.23% (3.23%)
			Projected Collateral Prepayments	14.00% - 14.00% (14.00%)
			Projected Collateral Losses	7.00% - 7.00% (7.00%)
			Projected Collateral Severities	40.00% - 40.00% (40.00%)

(1) Represents the proportion of the principal expected to be collected relative to the loan balances as of December 31, 2017.

As further described above, values for the Company's securities portfolio are based upon prices obtained from third-party pricing services. Broker quotations may also be used. The significant unobservable inputs used in the fair value measurement of the Company's securities are prepayment rates, probability of default, and loss severity in the event of default. Significant increases (decreases) in any of those inputs in isolation would result in a significantly lower (higher) fair value measurement. Generally, a change in the assumption used for the probability of default is accompanied by a directionally similar change in the assumption used for the loss severity and a directionally opposite change in the assumption used for prepayment rates.

Also, as described above, valuation of the Company's loan portfolio is determined by the Manager using third-party pricing services where available, specialized third party valuation service providers, or model-based pricing. The evaluation considers the underlying characteristics of each loan, which are observable inputs, including: coupon, maturity date, loan age, reset date, collateral type,

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periodic and life cap, geography, and prepayment speeds. These valuations also require significant judgments, which include assumptions regarding capitalization rates, re-performance rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management. Changes in the market environment and other events that may occur over the life of our investments may cause the gains or losses ultimately realized on these investments to be different than the valuations currently estimated. If applicable, analyses provided by valuation service providers are reviewed and considered by the Manager.

8. Financing arrangements

Repurchase agreements

A vast majority of the Company's financing arrangements are through repurchase agreements. The Company pledges certain real estate securities and loans as collateral under repurchase agreements with financial institutions, the terms and conditions of which are negotiated on a transaction-by-transaction basis. Repurchase agreements involve the sale and a simultaneous agreement to repurchase the transferred assets or similar assets at a future date. The amount borrowed generally is equal to the fair value of the assets pledged less an agreed-upon discount, referred to as a "haircut." The Company calculates haircuts disclosed in the tables below by dividing allocated capital on each borrowing by the current fair market value of each investment. Repurchase agreements entered into by the Company are accounted for as financings and require the repurchase of the transferred assets at the end of each agreement's term, typically 30 to 90 days. The carrying amount of the Company's repurchase agreements approximates fair value due to their short-term maturities or floating rate coupons. If the Company maintains the beneficial interest in the specific assets pledged during the term of the borrowing, it receives the related principal and interest payments. If the Company does not maintain the beneficial interest in the specific assets pledged during the term of the borrowing, it will have the related principal and interest payments remitted to it by the lender. Interest rates on these borrowings are fixed based on prevailing rates corresponding to the terms of the borrowings, and interest is paid at the termination of the borrowing at which time the Company may enter into a new borrowing arrangement at prevailing market rates with the same counterparty or repay that counterparty and negotiate financing with a different counterparty. If the fair value of pledged assets declines due to changes in market conditions or the publishing of monthly security paydown factors, lenders typically would require the Company to post additional securities as collateral, pay down borrowings or establish cash margin accounts with the counterparties in order to re-establish the agreed-upon collateral requirements, referred to as margin calls. The fair value of financial instruments pledged as collateral on the Company's repurchase agreements disclosed in the tables below represent the Company's fair value of such instruments which may differ from the fair value assigned to the collateral by its counterparties. The Company maintains a level of liquidity in the form of cash and unpledged Agency RMBS and Agency Interest-Only securities in order to meet these obligations. Under the terms of the Company's master repurchase agreements, the counterparties may, in certain cases, sell or re-hypothecate the pledged collateral.

The following table presents certain financial information regarding the Company's repurchase agreements secured by real estate securities as of September 30, 2018 (in thousands):

Financing Arrangements Maturing Within:	Financing Arrangements			Financial Instruments Pledged		
	Balance	Weighted Average Rate	Weighted Average Haircut	Fair Value Pledged	Amortized Cost	Accrued Interest
Overnight	\$ 126,397	2.36%	3.0%	\$ 130,265	\$ 131,579	\$ 420
30 days or less	2,330,949	2.51%	8.1%	2,568,069	2,266,719	9,040
31-60 days	136,189	3.62%	20.3%	171,807	155,000	544
61-90 days	47,725	3.52%	22.1%	61,370	58,631	291
91-180 days	4,346	3.62%	22.5%	5,613	5,622	13
Greater than 180 days	42,154	3.13%	11.3%	49,849	49,636	25
Total / Weighted Average	\$ 2,687,760	2.59%	8.8%	\$ 2,986,973	\$ 2,667,187	\$ 10,333

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The following table presents certain financial information regarding the Company's repurchase agreements secured by real estate securities as of December 31, 2017 (in thousands):

Financing Arrangements Maturing Within:	Financing Arrangements			Financial Instruments Pledged		
	Balance	Weighted Average Rate	Weighted Average Haircut	Fair Value Pledged	Amortized Cost	Accrued Interest
Overnight	\$ 128,779	1.80%	3.2%	\$ 133,012	\$ 133,030	\$ 376
30 days or less	2,105,103	1.94%	9.6%	2,361,574	2,302,744	8,407
31-60 days	611,763	1.76%	7.6%	677,310	670,307	2,131
61-90 days	32,445	3.04%	25.9%	43,851	42,712	301
91-180 days	1,131	3.21%	22.7%	1,463	1,479	1
Greater than 180 days	93,060	3.00%	20.4%	119,490	118,698	47
Total / Weighted Average	\$ 2,972,281	1.94%	9.4%	\$ 3,336,700	\$ 3,268,970	\$ 11,263

Although repurchase agreements are committed borrowings until maturity, the lender retains the right to mark the underlying collateral to fair value. A reduction in the value of pledged assets resulting from changes in market conditions or factor changes would require the Company to provide additional collateral or cash to fund margin calls. See Note 9 for details on collateral posted/received against certain derivatives. The following table presents information with respect to the Company's posting of collateral under repurchase agreements on September 30, 2018 and December 31, 2017, broken out by investment type (in thousands):

	September 30, 2018	December 31, 2017
Fair Value of investments pledged as collateral under repurchase agreements		
Agency RMBS	\$ 1,721,310	\$ 2,118,615
Non-Agency RMBS	693,696	976,072
ABS	24,383	30,833
CMBS	272,907	211,180
Cash pledged (i.e., restricted cash) under repurchase agreements	10,053	12,155
Fair Value of unsettled trades pledged as collateral under repurchase agreements	274,677	—
Total collateral pledged under repurchase agreements	\$ 2,997,026	\$ 3,348,855

The following table presents information with respect to the Company's total borrowings under repurchase agreements on September 30, 2018 and December 31, 2017, broken out by investment type (in thousands):

	September 30, 2018	December 31, 2017
Repurchase agreements secured by investments:		
Agency RMBS	\$ 1,888,026	\$ 2,005,133
Non-Agency RMBS	566,269	784,897
ABS	18,585	22,761
CMBS	214,880	159,490
Gross Liability for repurchase agreements	\$ 2,687,760	\$ 2,972,281

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The following table presents both gross information and net information about repurchase agreements eligible for offset in the consolidated balance sheets as of September 30, 2018 (in thousands):

Description	Gross Amounts of Recognized Liabilities	Gross Amounts Offset in the Consolidated Balance Sheets	Net Amounts of Liabilities Presented in the Consolidated Balance Sheets	Gross Amounts Not Offset in the Consolidated Balance Sheets		Net Amount
				Financial Instruments Posted	Cash Collateral Posted	
Repurchase agreements	\$ 2,687,760	\$ —	\$ 2,687,760	\$ 2,687,760	\$ —	\$ —

The following table presents both gross information and net information about repurchase agreements eligible for offset in the consolidated balance sheets as of December 31, 2017 (in thousands):

Description	Gross Amounts of Recognized Liabilities	Gross Amounts Offset in the Consolidated Balance Sheets	Net Amounts of Liabilities Presented in the Consolidated Balance Sheets	Gross Amounts Not Offset in the Consolidated Balance Sheets		Net Amount
				Financial Instruments Posted	Cash Collateral Posted	
Repurchase agreements	\$ 2,972,281	\$ —	\$ 2,972,281	\$ 2,972,281	\$ —	\$ —

Term loan and revolving facilities

The following table presents information regarding the Company's term loan and revolving facilities, excluding facilities within investments in debt and equity of affiliates, as of September 30, 2018 and December 31, 2017 (in thousands).

Facility (1)	Maturity Date	September 30, 2018				December 31, 2017			
		Rate	Funding Cost	Balance	Net Carrying Value of Assets Pledged as Collateral	Rate	Funding Cost	Balance	Net Carrying Value of Assets Pledged as Collateral
Term loan, net (2)	October 10, 2023	4.63%	4.80%	\$ 101,987	\$ 140,059	—%	—%	\$ —	\$ —
Revolving facility A	July 1, 2019	4.37%	4.37%	\$ 21,796	\$ 32,800	3.70%	3.70%	\$ 21,796	\$ 32,800
Revolving facility B	June 15, 2020	4.25%	4.28%	64,827	86,659	4.07%	4.07%	10,330	15,861
Revolving facility C	August 10, 2023	4.27%	4.48%	37,011	51,401	—%	—%	—	—
Total revolving facilities				\$ 123,634	\$ 170,860			\$ 32,126	\$ 48,661
Total term loan and revolving facilities				\$ 225,621	\$ 310,919			\$ 32,126	\$ 48,661

(1) The term loan and all revolving facilities listed above are interest only until maturity.

(2) The total borrowings under the term loan is \$103 million, which is shown net of deferred financing costs of \$1.0 million.

On September 17, 2014, AG MIT CREL, LLC ("AG MIT CREL"), a subsidiary of the Company, entered into a Master Repurchase Agreement and Securities Contract (the "CREL Repurchase Agreement" or "Revolving facility A") with Wells Fargo to finance AG MIT CREL's acquisition of certain beneficial interests in one or more commercial mortgage loans. Each transaction under the CREL Repurchase Agreement will have its own specific terms, such as identification of the assets subject to the transaction, sale price, repurchase price and rate. The CREL Repurchase Agreement provided for a funding period ending September 17, 2016 and an initial facility termination date of September 17, 2016 (the "Initial Termination Date"), subject to the satisfaction of certain terms of the extensions described below. AG MIT CREL had three (3) one-year options to extend the term of the CREL Repurchase Agreement.

On August 4, 2015, the Company, AG MIT CREL and AG MIT, LLC ("AG MIT") entered into an Omnibus Amendment No. 1 to Master Repurchase and Securities Contract, Guarantee Agreement and Fee and Pricing Letter (the "First Amendment") with Wells Fargo, which amended certain terms in the CREL Repurchase Agreement, the Guarantee, dated as of September 17, 2014, delivered

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by the Company and AG MIT to Wells Fargo and the Fee and Pricing Letter, dated as of September 17, 2014, between AG MIT CREL and Wells Fargo. The First Amendment lowered the maximum aggregate borrowing capacity available under the CREL Repurchase Agreement from \$150 million to approximately \$42.8 million. The First Amendment also provided that the CREL Repurchase Agreement become full recourse to the Company and AG MIT, LLC. By amending the recourse of the CREL Repurchase Agreement to the Company and AG MIT, the Company was able to remove certain financial covenants on AG MIT CREL that limited the amount that AG MIT CREL could borrow under the CREL Repurchase Agreement. The First Amendment also eliminated the fee for the portion of the repurchase facility that was unused. The CREL Repurchase Agreement contains representations, warranties, covenants, including financial covenants, events of default and indemnities that are customary for agreements of this type. As of September 30, 2018 and December 31, 2017, the Company had \$21.8 million of debt outstanding under this facility.

In September 2016, the Company exercised its first option to extend the term of the CREL Repurchase Agreement. In June 2017, the Company, AG MIT CREL and AG MIT entered into an Omnibus Amendment No. 2 to Master Repurchase and Securities Contract, Guarantee Agreement and Fee and Pricing Letter (the "Second Amendment") with Wells Fargo. The Second Amendment amended the CREL Repurchase Agreement to extend the facility termination date to July 1, 2019 and removed the second and third extension options.

In June 2018, AG MIT WFB1 2014 LLC ("AG MIT WFB1"), a subsidiary of the Company, entered into Amendment Numbers Seven and Eight of the Master Repurchase Agreement and Securities Contract (as amended, the "WFB1 Repurchase Agreement" or "Revolving facility B") with Wells Fargo to finance the ownership and acquisition of certain pools of residential mortgage loans. The WFB1 Repurchase Agreement provides for a funding period ending June 14, 2019 and a facility termination date of June 15, 2020. The maximum aggregate borrowing capacity available under the WFB1 Repurchase Agreement is \$110.0 million. The WFB1 Repurchase Agreement contains representations, warranties, covenants, including financial covenants, events of default and indemnities that are customary for agreements of this type. In the event the debt outstanding under the WFB1 Repurchase Agreement falls below \$7.0 million, a cash trap trigger event will occur in which all income payments received by Wells Fargo will be applied against the outstanding balance until the WFB1 Repurchase Agreement is paid off. As of September 30, 2018 and December 31, 2017, the Company had \$64.8 million and \$10.3 million of debt outstanding under the WFB1 Repurchase Agreement, respectively.

In August 2018, AG MIT CREL II, LLC, a subsidiary of the Company, entered into a Master Repurchase Agreement with JP Morgan (the "JPM Repurchase Agreement" or "Revolving facility C"). The agreement provides a maximum aggregate borrowing capacity of \$100.0 million. The JPM Repurchase Agreement contains representations, warranties, covenants, including financial covenants, events of default and indemnities that are customary for agreements of this type. As of September 30, 2018, the Company had \$37.0 million of debt outstanding under the JPM Repurchase Agreement.

In September 2018, SFR MT LLC, a subsidiary of the Company, entered into an agreement with an insurance company to finance the ownership and acquisition of Single-family rental properties (the "term loan"). The financing has a fixed rate of 4.625% and has a termination date of October 10, 2023. The agreement provides a maximum aggregate borrowing capacity of \$103.0 million. This financing arrangement contains representations, warranties, covenants, including financial covenants, events of default and indemnities that are customary for agreements of this type. As of September 30, 2018, the Company has \$103.0 million of debt outstanding under the agreement.

Financing arrangements

The Company seeks to obtain financing from several different counterparties in order to reduce the financing risk related to any single counterparty. The Company has entered into master repurchase agreements ("MRAs") or loan agreements with such financing counterparties. As of September 30, 2018 and December 31, 2017 the Company had 41 and 39 financing counterparties, respectively, under which it had outstanding debt with 31 and 27 counterparties, respectively.

At September 30, 2018, there were no counterparties that provided the Company with financing for which the Company had greater than 5% of its stockholders' equity at risk, excluding stockholders' equity at risk under financing through affiliated entities.

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The following table presents information at December 31, 2017 with respect to each counterparty that provides the Company with financing for which the Company had greater than 5% of its stockholders' equity at risk, excluding stockholders' equity at risk under financing through affiliated entities.

Counterparty	Stockholders' Equity at Risk (in thousands)	Weighted Average Maturity (days)	Percentage of Stockholders' Equity
RBC (Barbados) Trading Bank Corporation	\$ 45,239	26	6%
Barclays Capital Inc	39,358	13	6%

The Company's financing arrangements generally include customary representations, warranties, and covenants, but may also contain more restrictive supplemental terms and conditions. Although specific to each financing arrangement, typical supplemental terms include requirements of minimum equity, leverage ratios, performance triggers or other financial ratios.

9. Derivatives

The Company's derivatives may include interest rate swaps ("swaps"), TBAs, swaption contracts and Eurodollar Futures and U.S. Treasury Futures, (the latter two, collectively, "Futures"). Derivatives have not been designated as hedging instruments. The Company may also utilize other instruments to manage interest rate risk, including long and short positions in U.S. Treasury securities.

The Company may exchange cash "variation margin" with the counterparties to its derivative instruments on a daily basis based upon changes in fair value as measured by the Chicago Mercantile Exchange ("CME"), the central clearinghouse through which those derivatives are cleared. In addition, the CME requires market participants to deposit and maintain an "initial margin" amount which is determined by the CME and is generally intended to be set at a level sufficient to protect the CME from the maximum estimated single-day price movement in that market participant's contracts.

Receivables recognized for the right to reclaim cash initial margin posted in respect of derivative instruments are included in the "Restricted cash" line item in the consolidated balance sheets. Prior to the first quarter of 2017, the daily exchange of variation margin associated with centrally cleared derivative instruments was considered a pledge of collateral. For these prior periods, receivables recognized for the right to reclaim cash variation margin posted in respect of derivative instruments are included in the "Restricted cash" line item in the consolidated balance sheets.

Beginning in the first quarter of 2017, as a result of an amendment to the CME's rule book, which governs their central clearing activities, the daily exchange of variation margin associated with a CME instrument is legally characterized as the daily settlement of the derivative instrument itself, as opposed to a pledge of collateral. Accordingly, beginning in 2017, the Company accounts for the daily receipt or payment of variation margin associated with its centrally cleared derivative instruments as a direct reduction to the carrying value of the derivative asset or liability, respectively. Beginning in 2017, the carrying amount of centrally cleared derivative instruments reflected in the Company's consolidated balance sheets approximates the unsettled fair value of such instruments. As variation margin is exchanged on a one-day lag, the unsettled fair value of such instruments represents the change in fair value that occurred on the last day of the reporting period. Non-exchange traded derivatives were not affected by these legal interpretations and continue to be reported at fair value including accrued interest.

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The following table presents the fair value of the Company's derivatives and other instruments and their balance sheet location at September 30, 2018 and December 31, 2017 (in thousands).

Derivatives and Other Instruments	Designation	Balance Sheet Location	September 30, 2018	December 31, 2017
Interest rate swaps (1)	Non-Hedge	Derivative assets, at fair value	\$ 3,583	\$ 1,428
Interest rate swaps (1)	Non-Hedge	Derivative liabilities, at fair value	(511)	(450)
Swaptions	Non-Hedge	Derivative assets, at fair value	523	362
TBAs	Non-Hedge	Derivative assets, at fair value	781	227
TBAs	Non-Hedge	Derivative liabilities, at fair value	(519)	—
Short positions on U.S. Treasury Futures (2)	Non-Hedge	Derivative assets, at fair value	—	110
Short positions on U.S. Treasuries	Non-Hedge	Obligation to return securities borrowed under reverse repurchase agreements, at fair value (3)	(5,730)	(24,379)

- (1) As of September 30, 2018, the Company applied a reduction in fair value of \$61.1 million and \$0.4 million to its interest rate swap assets and liabilities, respectively, related to variation margin. As of December 31, 2017, the Company applied a reduction in fair value of \$19.5 million and \$0.6 million to its interest rate swap assets and liabilities, respectively, related to variation margin.
- (2) As of September 30, 2018, the Company applied a reduction in fair value of \$0.6 million its U.S. Treasury Futures assets, related to variation margin. As of December 31, 2017, the Company did not apply a fair value reduction to its U.S. Treasury Futures assets and liabilities related to variation margin.
- (3) The Company's obligation to return securities borrowed under reverse repurchase agreements relates to securities borrowed to cover short sales of U.S. Treasury securities. The change in fair value of the borrowed securities is recorded on the "Unrealized gain/(loss) on derivatives and other instruments, net" line item in the Company's consolidated statement of operations.

The following table summarizes information related to derivatives and other instruments (in thousands):

Non-hedge derivatives and other instruments held long/(short):	September 30, 2018	December 31, 2017
Notional amount of Pay Fix/Receive Float Interest Rate Swap Agreements	2,143,000	2,227,000
Notional amount of Swaptions	250,000	270,000
Net notional amount of TBAs	75,000	100,000
Notional amount of short positions on U.S. Treasury Futures (1)	(50,000)	(52,500)
Notional amount of short positions on U.S. Treasuries	(5,750)	(24,668)

- (1) Each U.S. Treasury Future contract embodies \$100,000 of notional value.

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The following table summarizes gains/(losses) related to derivatives and other instruments (in thousands):

Non-hedge derivatives and other instruments gain/(loss):	Statement of Operations Location	Three Months Ended		Nine Months Ended	
		September 30, 2018	September 30, 2017	September 30, 2018	September 30, 2017
Interest rate swaps, at fair value	Unrealized gain/(loss) on derivative and other instruments, net	\$ 5,921	\$ 2,955	\$ 47,783	\$ 6,214
Interest rate swaps, at fair value	Net realized gain/(loss)	7,925	(1,813)	13,787	(9,896)
Eurodollar Futures	Unrealized gain/(loss) on derivative and other instruments, net	—	75	—	75
Eurodollar Futures	Net realized gain/(loss)	—	323	—	323
Swaptions, at fair value	Unrealized gain/(loss) on derivative and other instruments, net	(449)	—	(481)	—
Swaptions, at fair value	Net realized gain/(loss)	—	—	51	—
U.S. Treasury Futures	Unrealized gain/(loss) on derivative and other instruments, net	573	(722)	464	658
U.S. Treasury Futures	Net realized gain/(loss)	(5)	(224)	735	(4,055)
TBAs (1)	Unrealized gain/(loss) on derivative and other instruments, net	18	54	36	(996)
TBAs (1)	Net realized gain/(loss)	(124)	1,672	40	3,003
U.S. Treasuries	Unrealized gain/(loss) on derivative and other instruments, net	28	—	(66)	(1,725)
U.S. Treasuries	Net realized gain/(loss)	—	—	131	1,731

- (1) For the three months ended September 30, 2018, gains and losses from purchases and sales of TBAs consisted of \$0.5 million of net TBA dollar roll net interest income and net losses of \$(0.5) million due to price changes. For the nine months ended September 30, 2018, gains and losses from purchases and sales of TBAs consisted of \$1.6 million of net TBA dollar roll net interest income and net losses of \$(1.5) million due to price changes. For the three months ended September 30, 2017, gains and losses from purchases and sales of TBAs consisted of \$1.5 million of net TBA dollar roll net interest income and net gains of \$0.2 million due to price changes. For the nine months ended September 30, 2017, gains and losses from purchases and sales of TBAs consisted of \$2.6 million of net TBA dollar roll net interest income and net losses of \$(0.6) million due to price changes.

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The following table presents both gross information and net information about derivative and other instruments eligible for offset in the consolidated balance sheets as of September 30, 2018 (in thousands):

Description (1)	Gross Amounts of Recognized Assets (Liabilities)	Gross Amounts Offset in the Consolidated Balance Sheets	Net Amounts of Assets (Liabilities) Presented in the Consolidated Balance Sheets	Gross Amounts Not Offset in the Consolidated Balance Sheet		Net Amount
				Financial Instruments (Posted)/Received	Cash Collateral (Posted)/Received	
Receivable Under Reverse Repurchase Agreements	\$ 5,750	\$ —	\$ 5,750	\$ 5,730	\$ —	\$ 20
Derivative Assets (2)						
Interest Rate Swaps	\$ 9,054	\$ —	\$ 9,054	\$ —	\$ 9,054	\$ —
Interest Rate Swaptions	523	—	523	—	(100)	623
TBAs	781	—	781	—	—	781
Total Derivative Assets	\$ 10,358	\$ —	\$ 10,358	\$ —	\$ 8,954	\$ 1,404
Derivative Liabilities (3)						
Interest Rate Swaps	\$ 1,480	\$ —	\$ 1,480	\$ —	\$ 1,480	\$ —
TBAs	(519)	—	(519)	—	(519)	—
Total Derivative Liabilities	\$ 961	\$ —	\$ 961	\$ —	\$ 961	\$ —

(1) The Company applied a reduction in fair value of \$61.1 million and \$0.4 million to its interest rate swap assets and liabilities, respectively, related to variation margin.

(2) Included in Derivative Assets on the consolidated balance sheet is \$10.4 million less accrued interest of \$(5.5) million for a total of \$4.9 million.

(3) Included in Derivative Liabilities on the consolidated balance sheet is \$1.0 million plus accrued interest of \$(2.0) million for a total of \$(1.0) million.

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The following table presents both gross information and net information about derivative instruments eligible for offset in the consolidated balance sheets as of December 31, 2017 (in thousands):

Description (1)	Gross Amounts of Recognized Assets (Liabilities)	Gross Amounts Offset in the Consolidated Balance Sheets	Net Amounts of Assets (Liabilities) Presented in the Consolidated Balance Sheets	Gross Amounts Not Offset in the Consolidated Balance Sheet		Net Amount
				Financial Instruments (Posted)/Received	Cash Collateral (Posted)/Received	
Receivable Under Reverse Repurchase Agreements	\$ 24,671	\$ —	\$ 24,671	\$ 24,379	\$ —	\$ 292
Derivative Assets (2)						
Interest Rate Swaps	\$ 4,544	\$ —	\$ 4,544	\$ —	\$ 1,666	\$ 2,878
Interest Rate Swaptions	362	—	362	—	—	362
TBAs	227	—	227	—	—	227
U.S. Treasury Futures - Short	110	—	110	—	—	110
Total Derivative Assets	\$ 5,243	\$ —	\$ 5,243	\$ —	\$ 1,666	\$ 3,577
Derivative Liabilities (3)						
Interest Rate Swaps	\$ (6)	\$ —	\$ (6)	\$ —	\$ (6)	\$ —
Total Derivative Liabilities	\$ (6)	\$ —	\$ (6)	\$ —	\$ (6)	\$ —

- (1) The Company applied a reduction in fair value of \$19.5 million and \$0.6 million to its interest rate swap assets and liabilities, respectively, related to variation margin.
- (2) Included in Derivative Assets on the consolidated balance sheet is \$5.2 million less accrued interest of \$(3.1) million for a total of \$2.1 million.
- (3) Included in Derivative Liabilities on the consolidated balance sheet is \$(6) thousand plus accrued interest of \$(444) thousand for a total of \$(450) thousand.

The Company must post cash or securities as collateral on its derivative instruments when their fair value declines. This typically occurs when prevailing market rates change adversely, with the severity of the change also dependent on the term of the derivatives involved. The posting of collateral is generally bilateral, meaning that if the fair value of the Company's derivatives increases, its counterparty will post collateral to it. As of September 30, 2018, the Company pledged real estate securities with a fair value of \$7.1 million and cash of \$31.8 million as collateral against certain derivatives. The Company's counterparties posted cash of \$3.5 million to it as collateral for certain derivatives. As of December 31, 2017, the Company pledged real estate securities with a fair value of \$7.5 million and cash of \$25.4 million as collateral against certain derivatives. The Company's counterparties posted cash of \$1.7 million as collateral for certain derivatives.

Interest rate swaps

To help mitigate exposure to increases in interest rates, the Company uses currently-paying and may use forward-starting, one- or three-month LIBOR-indexed, pay-fixed, receive-variable, interest rate swap agreements. This arrangement hedges our exposure to higher interest rates because the variable-rate payments received on the swap agreements largely offset additional interest accruing on the related borrowings due to the higher interest rate, leaving the fixed-rate payments to be paid on the swap agreements as the Company's effective borrowing rate, subject to certain adjustments including changes in spreads between variable rates on the swap agreements and actual borrowing rates.

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As of September 30, 2018, the Company's interest rate swap positions consist of pay-fixed interest rate swaps. The following table presents information about the Company's interest rate swaps as of September 30, 2018 (in thousands):

Maturity	Notional Amount	Weighted Average Pay-Fixed Rate	Weighted Average Receive-Variable Rate	Weighted Average Years to Maturity
2019	\$ 50,000	1.29%	2.34%	1.08
2020	250,000	1.63%	2.34%	1.52
2021	27,000	2.86%	2.31%	2.89
2022	653,000	1.90%	2.34%	3.84
2023	219,000	2.97%	2.35%	4.75
2024	230,000	2.06%	2.34%	5.75
2025	125,000	2.87%	2.36%	6.63
2026	75,000	2.12%	2.32%	8.14
2027	264,000	2.35%	2.34%	8.94
2028	250,000	2.97%	2.34%	9.66
Total/Wtd Avg	\$ 2,143,000	2.24%	2.34%	5.41

As of December 31, 2017, the Company's interest rate swap positions consist of pay-fixed interest rate swaps. The following table presents information about the Company's interest rate swaps as of December 31, 2017 (in thousands):

Maturity	Notional Amount	Weighted Average Pay-Fixed Rate	Weighted Average Receive-Variable Rate	Weighted Average Years to Maturity
2019	\$ 170,000	1.36%	1.43%	1.88
2020	835,000	1.77%	1.52%	2.54
2022	653,000	1.90%	1.51%	4.59
2024	230,000	2.06%	1.47%	6.50
2026	75,000	2.12%	1.44%	8.89
2027	264,000	2.35%	1.50%	9.69
Total/Wtd Avg	\$ 2,227,000	1.89%	1.50%	4.56

TBAs

As discussed in Note 2, the Company has entered into TBAs. The following table presents information about the Company's TBAs for the three and nine months ended September 30, 2018 and September 30, 2017 (in thousands):

	Beginning Notional Amount	Buys or Covers	Sales or Shorts	For the Three Months Ended September 30, 2018				
				Ending Notional Amount	Fair Value as of Period End	Receivable/(Payable) from/to Broker	Derivative Asset	Derivative Liability
TBAs - Long	\$ 160,000	\$ 487,000	\$ (572,000)	\$ 75,000	\$ 75,727	\$ (75,224)	\$ 633	\$ (130)
TBAs - Short	\$ —	\$ 177,000	\$ (177,000)	\$ —	\$ —	\$ (241)	\$ 148	\$ (389)

	Beginning Notional Amount	Buys or Covers	Sales or Shorts	For the Three Months Ended September 30, 2017				
				Ending Notional Amount	Fair Value as of Period End	Receivable/(Payable) from/to Broker	Derivative Asset	Derivative Liability
TBAs - Long	\$ 300,000	\$ 738,000	\$ (922,000)	\$ 116,000	\$ 121,125	\$ (122,545)	\$ 118	\$ (1,537)

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For the Nine Months Ended September 30, 2018

	Beginning Notional Amount	Buys or Covers	Sales or Shorts	Ending Notional Amount	Fair Value as of Period End	Receivable/(Payable) from/to Broker	Derivative Asset	Derivative Liability
TBAs - Long	\$ 100,000	\$ 1,438,000	\$ (1,463,000)	\$ 75,000	\$ 75,727	\$ (75,224)	\$ 633	\$ (130)
TBAs - Short	\$ —	\$ 1,031,000	\$ (1,031,000)	\$ —	\$ —	\$ (241)	\$ 148	\$ (389)

For the Nine Months Ended September 30, 2017

	Beginning Notional Amount	Buys or Covers	Sales or Shorts	Ending Notional Amount	Fair Value as of Period End	Receivable/(Payable) from/to Broker	Derivative Asset	Derivative Liability
TBAs - Long	\$ 50,000	\$ 1,914,000	\$ (1,848,000)	\$ 116,000	\$ 121,125	\$ (122,545)	\$ 118	\$ (1,537)
TBAs - Short	\$ (75,000)	\$ 75,000	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —

10. Earnings per share

Basic earnings per share (“EPS”) is calculated by dividing net income/(loss) available to common stockholders for the period by the weighted- average shares of the Company’s common stock outstanding for that period that participate in the Company’s common dividends. Diluted EPS takes into account the effect of dilutive instruments, such as stock options, warrants, unvested restricted stock and unvested restricted stock units but uses the average share price for the period in determining the number of incremental shares that are to be added to the weighted-average number of shares outstanding.

As of September 30, 2018 and September 30, 2017, the Company’s outstanding warrants and unvested restricted stock units were as follows:

	September 30, 2018	September 30, 2017
Outstanding warrants (1)	—	1,007,500
Unvested restricted stock units previously granted to the Manager	40,007	60,000

(1) The warrants expired on July 6, 2018.

Each warrant entitled the holder to purchase half a share of the Company’s common stock at a fixed price upon exercise of the warrant. For the three and nine months ended September 30, 2017, the Company excluded the effects of such from the computation of diluted earnings per share because their effect would be anti-dilutive. The warrants expired on July 6, 2018.

Restricted stock units granted to the manager do not entitle the participant the rights of a shareholder of the Company’s common stock, such as dividend and voting rights, until shares are issued in settlement of the vested units. The restricted stock units are not considered to be participating shares. The dilutive effects of the restricted stock units are only included in diluted weighted average common shares outstanding.

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The following table presents a reconciliation of the earnings and shares used in calculating basic and diluted EPS for the three and nine months ended September 30, 2018 and September 30, 2017 (in thousands, except per share data):

	Three Months Ended September 30, 2018	Three Months Ended September 30, 2017	Nine Months Ended September 30, 2018	Nine Months Ended September 30, 2017
Numerator:				
Net income/(loss) available to common stockholders for basic and diluted earnings per share	\$ 20,010	\$ 32,644	\$ 29,691	\$ 84,198
Denominator:				
Basic weighted average common shares outstanding	28,422	27,841	28,274	27,756
Dilutive effect of restricted stock units	16	16	8	14
Diluted weighted average common shares outstanding	28,438	27,857	28,282	27,770
Basic Earnings/(Loss) Per Share of Common Stock:	\$ 0.70	\$ 1.17	\$ 1.05	\$ 3.03
Diluted Earnings/(Loss) Per Share of Common Stock:	\$ 0.70	\$ 1.17	\$ 1.05	\$ 3.03

The following tables detail our common stock dividends for the nine months ended September 30, 2018 and September 30, 2017:

2018

Declaration Date	Record Date	Payment Date	Dividend Per Share
3/15/2018	3/29/2018	4/30/2018	\$ 0.475
6/18/2018	6/29/2018	7/31/2018	0.500
9/14/2018	9/28/2018	10/31/2018	0.500

2017

Declaration Date	Record Date	Payment Date	Dividend Per Share (1)
3/10/2017	3/21/2017	4/28/2017	\$ 0.475
6/8/2017	6/19/2017	7/31/2017	0.475
9/11/2017	9/29/2017	10/31/2017	0.575

(1) The combined dividend of \$0.575 includes a dividend of \$0.475 per common share and a special cash dividend of \$0.10 per common share.

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The following tables detail our preferred stock dividends during the nine months ended September 30, 2018 and September 30, 2017:

2018

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.25% Series A	2/16/2018	2/28/2018	3/19/2018	\$ 0.51563
8.25% Series A	5/15/2018	5/31/2018	6/18/2018	0.51563
8.25% Series A	8/16/2018	8/31/2018	9/17/2018	0.51563

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.00% Series B	2/16/2018	2/28/2018	3/19/2018	\$ 0.50
8.00% Series B	5/15/2018	5/31/2018	6/18/2018	0.50
8.00% Series B	8/16/2018	8/31/2018	9/17/2018	0.50

2017

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.25% Series A	2/16/2017	2/28/2017	3/17/2017	\$ 0.51563
8.25% Series A	5/15/2017	5/31/2017	6/19/2017	0.51563
8.25% Series A	8/16/2017	8/31/2017	9/18/2017	0.51563

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.00% Series B	2/16/2017	2/28/2017	3/17/2017	\$ 0.50
8.00% Series B	5/15/2017	5/31/2017	6/19/2017	0.50
8.00% Series B	8/16/2017	8/31/2017	9/18/2017	0.50

11. Income taxes

As a REIT, the Company is not subject to federal income tax to the extent that it makes qualifying distributions to its stockholders, and provided it satisfies on a continuing basis, through actual investment and operating results, the REIT requirements including certain asset, income, distribution and stock ownership tests. Most states follow U.S. federal income tax treatment of REITs.

For the three months ended September 30, 2018 and September 30, 2017, the Company recorded excise tax expense of \$0.4 million and \$0.4 million, respectively. For the nine months ended September 30, 2018 and September 30, 2017, the Company recorded excise tax expense of \$1.1 million and \$1.1 million, respectively. Excise tax represents a four percent tax on the required amount of the Company's ordinary income and net capital gains not distributed during the year. The expense is calculated in accordance with applicable tax regulations.

The Company files tax returns in several U.S jurisdictions. There are no ongoing U.S. federal, state or local tax examinations related to the Company.

The Company elected to treat certain domestic subsidiaries as TRSs and may elect to treat other subsidiaries as TRSs. In general, a TRS may hold assets and engage in activities that the Company cannot hold or engage in directly, and generally may engage in any real estate or non-real estate-related business.

The Company elected to treat one of its foreign subsidiaries as a TRS and, accordingly, taxable income generated by this TRS may not be subject to local income taxation, but generally will be included in the Company's income on a current basis as Subpart F income, whether or not distributed.

Cash distributions declared by the Company that do not exceed its current or accumulated earnings and profits will be considered ordinary income to stockholders for income tax purposes unless all or a portion of a distribution is designated by the Company as a capital gain dividend. Distributions in excess of the Company's current and accumulated earnings and profits will be characterized as return of capital or capital gains.

Based on the Company's analysis of any potential uncertain income tax positions, the Company concluded it did not have any uncertain tax positions that meet the recognition or measurement criteria of ASC 740 as of September 30, 2018 or September 30, 2017. The Company's federal income tax returns for the last three tax years are open to examination by the Internal Revenue

Service. In the event that the Company incurs income tax related interest and penalties, its policy is to classify them as a component of provision for income taxes.

12. Related party transactions

The Company has entered into a management agreement with the Manager, which provided for an initial term and will be deemed renewed automatically each year for an additional one-year period, subject to certain termination rights. As of September 30, 2018 and December 31, 2017, no event of termination had occurred. The Company is externally managed and advised by the Manager. Pursuant to the terms of the management agreement, which became effective July 6, 2011 (upon the consummation of the Company's initial public offering (the "IPO")), the Manager provides the Company with its management team, including its officers, along with appropriate support personnel. Each of the Company's officers is an employee of Angelo Gordon. The Company does not have any employees. The Manager, pursuant to a delegation agreement dated as of June 29, 2011, has delegated to Angelo Gordon the overall responsibility of its day-to-day duties and obligations arising under the Company's management agreement.

Management fee

The Manager is entitled to a management fee equal to 1.50% per annum, calculated and paid quarterly, of the Company's Stockholders' Equity. For purposes of calculating the management fee, "Stockholders' Equity" means the sum of the net proceeds from any issuances of equity securities (including preferred securities) since inception (allocated on a pro rata daily basis for such issuances during the fiscal quarter of any such issuance, and excluding any future equity issuance to the Manager), plus the Company's retained earnings at the end of such quarter (without taking into account any non-cash equity compensation expense or other non-cash items described below incurred in current or prior periods), less any amount that the Company pays for repurchases of its common stock, excluding any unrealized gains, losses or other non-cash items that have impacted stockholders' equity as reported in the Company's financial statements prepared in accordance with GAAP, regardless of whether such items are included in other comprehensive income or loss, or in net income, and excluding one-time events pursuant to changes in GAAP, and certain other non-cash charges after discussions between the Manager and the Company's independent directors and after approval by a majority of the Company's independent directors. Stockholders' Equity, for purposes of calculating the management fee, could be greater or less than the amount of stockholders' equity shown on the Company's financial statements.

For the three and nine months ended September 30, 2018, the Company incurred management fees of approximately \$2.4 million and \$7.2 million, respectively. For the three and nine months ended September 30, 2017, the Company incurred management fees of approximately \$2.5 million and \$7.4 million, respectively.

Termination fee

The termination fee, payable upon the occurrence of (i) the Company's termination of the management agreement without cause or (ii) the Manager's termination of the management agreement upon a breach of any material term of the management agreement, will be equal to three times the average annual management fee during the 24-month period prior to such termination, calculated as of the end of the most recently completed fiscal quarter. As of September 30, 2018 and December 31, 2017, no event of termination of the management agreement had occurred.

Expense reimbursement

The Company is required to reimburse the Manager or its affiliates for operating expenses which are incurred by the Manager or its affiliates on behalf of the Company, including expenses relating to legal, accounting, due diligence and other services. The Company's reimbursement obligation is not subject to any dollar limitation; however, the reimbursement is subject to an annual budget process which combines guidelines from the Management Agreement with oversight by the Company's board of directors.

The Company reimburses the Manager or its affiliates for the Company's allocable share of the compensation, including, without limitation, annual base salary, bonus, any related withholding taxes and employee benefits paid to (i) the Company's chief financial officer based on the percentage of time spent on Company affairs, (ii) the Company's general counsel based on the percentage of time spent on the Company's affairs, and (iii) other corporate finance, tax, accounting, internal audit, legal, risk management, operations, compliance and other non-investment personnel of the Manager and its affiliates who spend all or a portion of their time managing the Company's affairs based upon the percentage of time devoted by such personnel to the Company's affairs. In their capacities as officers or personnel of the Manager or its affiliates, they devote such portion of their time to the Company's affairs as is necessary to enable the Company to operate its business.

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Of the \$3.5 million and \$10.2 million of Other operating expenses for the three and nine months ended September 30, 2018, respectively, the Company has accrued \$2.0 million and \$5.5 million, respectively, representing a reimbursement of expenses. Of the \$2.6 million and \$8.2 million of Other operating expenses for the three and nine months ended September 30, 2017, respectively, the Company has accrued \$1.4 million and \$4.8 million, respectively, representing a reimbursement of expenses.

Restricted stock grants

Pursuant to the Company's Manager Equity Incentive Plan and the Equity Incentive Plan adopted on July 6, 2011, the Company can award up to 277,500 shares of its common stock in the form of restricted stock, stock options, restricted stock units or other types of awards to the directors, officers, advisors, consultants and other personnel of the Company and to the Manager. As of September 30, 2018, 48,461 shares of common stock were available to be awarded under the equity incentive plans. Awards under the equity incentive plans are forfeitable until they become vested. An award will become vested only if the vesting conditions set forth in the applicable award agreement (as determined by the compensation committee) are satisfied. The vesting conditions may include performance of services for a specified period, achievement of performance goals, or a combination of both. The compensation committee also has the authority to provide for accelerated vesting of an award upon the occurrence of certain events in its discretion.

As of September 30, 2018, the Company has granted an aggregate of 68,789 and 40,250 shares of restricted common stock to its independent directors and Manager, respectively, and 120,000 restricted stock units to its Manager under its equity incentive plans. As of September 30, 2018, all the shares of restricted common stock granted to the Company's Manager and independent directors have vested and 79,993 restricted stock units granted to the Company's Manager have vested. The 40,007 restricted stock units that have not vested as of September 30, 2018 were granted to the Manager on July 1, 2017 and represent the right to receive an equivalent number of shares of the Company's common stock to be issued if and when the units vest. Annual vesting of approximately 20,000 units will occur on each of July 1, 2019, and July 1, 2020. The units do not entitle the participant the rights of a holder of the Company's common stock, such as dividend and voting rights, until shares are issued in settlement of the vested units. The vesting of such units is subject to the continuation of the management agreement. If the management agreement terminates, all unvested units then held by the Manager or the Manager's transferee shall be immediately cancelled and forfeited without consideration.

Director compensation

Beginning in 2018, the Company began paying a \$160,000 annual base director's fee to each independent director. Base director's fees are paid 50% in cash and 50% in restricted common stock. The number of shares of restricted common stock to be issued each quarter to each independent director is determined based on the average of the high and low prices of the Company's common stock on the New York Stock Exchange on the last trading day of each fiscal quarter. To the extent that any fractional shares would otherwise be issuable and payable to each independent director, a cash payment is made to each independent director in lieu of any fractional shares. All directors' fees are paid pro rata (and restricted stock grants determined) on a quarterly basis in arrears, and shares issued are fully vested and non-forfeitable. These shares may not be sold or transferred by such director during the time of his service as an independent member of the Company's board.

Investments in debt and equity of affiliates

The Company invests in credit sensitive residential and commercial real estate assets through affiliated entities which hold an ownership interest in the assets. The Company is one investor, amongst other investors managed by affiliates of Angelo Gordon, in such entities and has applied the equity method of accounting for such investments. As of September 30, 2018 and December 31, 2017, the Company's share of these investments had a gross fair market value of \$164.9 million and \$88.3 million, respectively, net of any non-recourse securitized debt. During Q3 2018, the Company transferred certain of its CMBS from certain of its non-wholly owned subsidiaries to a fully consolidated entity. The Company executed this transfer in order to obtain financing on these real estate securities. As a result, there was a reclassification of these assets from the "Investments in debt and equity affiliates" line item to the "CMBS" line item on the Company's consolidated balance sheets. In addition, the Company has also shown this reclassification as a non-cash transfer on its consolidated statements of cash flows.

The Company's investment in AG Arc, the entity through which the Company invests in Arc Home, is reflected on the "Investments in debt and equity of affiliates" line item on its consolidated balance sheets at a fair value of \$23.1 million and \$17.9 million on September 30, 2018 and December 31, 2017, respectively. On March 8, 2016, an affiliate of the Manager ("the Affiliate") became a member of AG Arc. The Affiliate acquired an ownership interest in AG Arc which resulted in the Company's ownership interest being reduced on a pro-rata basis.

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In June 2016, Arc Home closed on the acquisition of a Fannie Mae, Freddie Mac, Federal Housing Administration (“FHA”), Veteran’s Administration (“VA”) and Ginnie Mae seller/servicer of mortgages with licenses to conduct business in 47 states, including Washington D.C. Through this subsidiary, Arc Home originates conforming, Government, Jumbo and other non-conforming residential mortgage loans, retains the mortgage servicing rights associated with the loans it originates, and purchases additional mortgage servicing rights from third-party sellers. Arc Home is led by an external management team.

On August 29, 2017, the Company, alongside private funds under the management of Angelo Gordon entered into the MATH LLC Agreement, which requires that MATH fund a capital commitment of \$75.0 million to MATT. The Company’s share of MATH’s total capital commitment to MATT is \$33.4 million, of which the Company had funded \$14.5 million as of September 30, 2018. As of September 30, 2018, the Company’s remaining commitment was \$18.9 million (net of any return of capital to the Company).

Transactions with affiliates

In connection with the Company’s investments in residential mortgage loans and residential mortgage loans in securitized form that it purchases from an affiliate (or affiliates) of the Manager (“Securitized Whole Loans”), the Company may engage asset managers to provide advisory, consultation, asset management and other services to help our third-party servicers formulate and implement strategic plans to manage, collect and dispose of loans in a manner that is reasonably expected to maximize the amount of proceeds from each loan. Beginning in November 2015, the Company engaged Red Creek Asset Management LLC (“Asset Manager”), a related party of the Manager and direct subsidiary of Angelo Gordon, as the asset manager for certain of its residential loans and Securitized Whole Loans. The Asset Manager acknowledges that the Company will at all times have and retain ownership and control of all loans and that the Asset Manager will not acquire (i) title to any loan, (ii) any security interest in any loan, or (iii) any other rights or interests of any kind or any nature whatsoever in or to any loan. The Company pays separate arm’s-length asset management fees as assessed and confirmed periodically by a third party valuation firm for (i) non-performing loans and (ii) reperforming loans. For the three and nine months ended September 30, 2018, the fees paid by the Company to the Asset Manager totaled \$123,050 and \$244,481, respectively. For the three and nine months ended September 30, 2017, the fees paid by the Company to the Asset Manager totaled \$41,732 and \$137,022, respectively.

Arc Home may sell loans to the Company, to third parties, or to affiliates of the Manager. Arc Home may also enter into agreements with third parties or affiliates of the Manager to sell rights to receive the excess servicing spread related to MSR’s that it either purchases from third parties or originates. The Company has entered into agreements with Arc Home to purchase rights to receive the excess servicing spread related to certain of Arc Home’s MSR’s and as of September 30, 2018, these Excess MSR’s had fair value of approximately \$29.3 million.

In connection with the Company’s investments in Excess MSR’s purchased through Arc Home, the Company pays an administrative fee to Arc Home. For the three and nine months ended September 30, 2018 the administrative fees paid by the Company to Arc Home totaled \$87,264 and \$164,946, respectively. For the three and nine months ended September 30, 2017 the administrative fees paid by the Company to Arc Home totaled \$2,921 and \$6,364, respectively.

In June 2016, in accordance with the Company’s Affiliated Transactions Policy, the Company executed two trades whereby the Company acquired real estate securities from two separate affiliates of the Manager (the “June Selling Affiliates”). As of the date of the trades, the securities acquired from the June Selling Affiliates had a total fair value of \$6.9 million. In each case, the June Selling Affiliates sold the real estate securities through a BWIC (Bids Wanted in Competition). Prior to the submission of the BWIC by the June Selling Affiliates, the Company submitted its bid for the real estate securities to the June Selling Affiliates. The Company’s pre-submission of its bid allowed the Company to confirm third-party market pricing and best execution.

In February 2017, in accordance with the Company’s Affiliated Transactions Policy, the Company executed one trade whereby the Company acquired a real estate security from an affiliate of the Manager (the “February Selling Affiliate”). As of the date of the trade, the security acquired from the February Selling Affiliate had a total fair value of \$2.0 million. The February Selling Affiliate sold the real estate security through a BWIC. Prior to the submission of the BWIC by the February Selling Affiliate, the Company submitted its bid for the real estate security to the February Selling Affiliate. The Company’s pre-submission of its bid allowed the Company to confirm third-party market pricing and best execution.

In July 2017, in accordance with the Company’s Affiliated Transactions Policy, the Company acquired certain real estate securities from an affiliate of the Manager (the “July Selling Affiliate”). As of the date of the trade, the securities acquired from the July Selling Affiliate had a total fair value of \$0.2 million. As procuring market bids for the real estate securities was determined to be impracticable in the Manager’s reasonable judgment, appropriate pricing was based on a valuation prepared by an independent

third-party pricing vendor. The third-party pricing vendor allowed the Company to confirm third-party market pricing and best execution.

In October 2017, in accordance with the Company's Affiliated Transactions Policy, the Company acquired certain real estate securities and loans from two affiliates of the Manager (the "October Selling Affiliates"). As of the date of the trade, the real estate securities and loans acquired from the October Selling Affiliates had a total fair value of \$8.4 million. As procuring market bids for the real estate securities and loans were determined to be impracticable in the Manager's reasonable judgment, appropriate pricing was based on a valuation prepared by independent third-party pricing vendors. The third-party pricing vendors allowed the Company to confirm third-party market pricing and best execution.

13. Equity

On May 2, 2018, the Company filed a shelf registration statement registering up to \$750.0 million of its securities, including capital stock (the "2018 Registration Statement"). As of September 30, 2018, \$650.0 million of the Company's securities, including capital stock, was available for issuance under the 2018 Registration Statement. The 2018 Registration Statement became effective on May 18, 2018 and will expire on May 18, 2021.

Concurrently with the IPO in 2011, the Company offered a private placement of 3,205,000 units at \$20.00 per share to a limited number of investors qualifying as "accredited investors" under Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act"). Each unit consisted of one share of common stock ("private placement share") and a warrant ("private placement warrant") to purchase 0.50 of a share of common stock. Each private placement warrant had an exercise price of \$20.50 per share (as adjusted for reorganizations, reclassifications, consolidations, mergers, sales, transfers or other dispositions) and expired on July 6, 2018. No warrants were exercised for the three and nine months ended September 30, 2017, or in 2018 through the expiration date on July 6, 2018.

The Company's Series A and Series B Preferred Stock have no stated maturity and are not subject to any sinking fund or mandatory redemption. Under certain circumstances upon a change of control, the Company's Series A and Series B Preferred Stock are convertible to shares of the Company's common stock. Holders of the Company's Series A and Series B Preferred Stock have no voting rights, except under limited conditions, and holders are entitled to receive cumulative cash dividends at a rate of 8.25% and 8.00% per annum on the Series A and Series B Preferred Stock, respectively, of the \$25.00 per share liquidation preference before holders of the common stock are entitled to receive any dividends. Shares of the Company's Series A and Series B Preferred Stock are currently redeemable at \$25.00 per share plus accumulated and unpaid dividends (whether or not declared) exclusively at the Company's option. Dividends are payable quarterly in arrears on the 17th day of each March, June, September and December. As of September 30, 2018, the Company had declared all required quarterly dividends on the Company's Series A and Series B Preferred Stock.

On November 3, 2015, the Company's board of directors authorized a stock repurchase program ("Repurchase Program") to repurchase up to \$25.0 million of its outstanding common stock. Such authorization does not have an expiration date. As part of the Repurchase Program, shares may be purchased in open market transactions, including through block purchases, through privately negotiated transactions, or pursuant to any trading plan that may be adopted in accordance with Rule 10b5-1 of the Exchange Act. Open market repurchases will be made in accordance with Exchange Act Rule 10b-18, which sets certain restrictions on the method, timing, price and volume of open market stock repurchases. Subject to applicable securities laws, the timing, manner, price and amount of any repurchases of common stock under the Repurchase Program may be determined by the Company in its discretion, using available cash resources. Shares of common stock repurchased by the Company under the Repurchase Program, if any, will be cancelled and, until reissued by the Company, will be deemed to be authorized but unissued shares of its common stock as required by Maryland law. The Repurchase Program may be suspended or discontinued by the Company at any time and without prior notice and the authorization does not obligate the Company to acquire any particular amount of common stock. The cost of the acquisition by the Company of shares of its own stock in excess of the aggregate par value of the shares first reduces additional paid-in capital, to the extent available, with any residual cost applied against retained earnings. No shares were repurchased under the Repurchase Program during the nine months ended September 30, 2018 or September 30, 2017, and approximately \$14.6 million of common stock remained authorized for future share repurchases under the Repurchase Program.

On May 5, 2017, the Company entered into an equity distribution agreement with each of Credit Suisse Securities (USA) LLC and JMP Securities LLC (collectively, the "Sales Agents"), which the Company refers to as the "Equity Distribution Agreements," pursuant to which the Company may sell up to \$100.0 million aggregate offering price of shares of its common stock from time to time through the Sales Agents, as defined in Rule 415 under the Securities Act of 1933. The Equity Distribution Agreements were amended on May 2, 2018 in conjunction with the filing of the Company's 2018 Registration Statement. As of September 30,

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2018, the Company sold 972.7 thousand shares of common stock under the Equity Distribution Agreements for net proceeds of approximately \$18.1 million.

14. Commitments and Contingencies

From time to time, the Company may become involved in various claims and legal actions arising in the ordinary course of business.

On December 9, 2015, the Company, alongside private funds under the management of Angelo Gordon, through AG Arc, entered into Arc Home's LLC Agreement and agreed to fund an initial capital commitment of \$30.0 million. On each of April 25, 2017 and September 28, 2018, the Company, alongside private funds under the management of Angelo Gordon, agreed to fund an additional capital commitment to Arc Home in the amount of \$10.0 million. As of September 30, 2018, the Company's share of Arc Home's total capital commitment was \$22.3 million. The Company had funded all of its capital commitment to Arc Home as of September 30, 2018.

On February 28, 2017, the Company, alongside a private fund under the management of Angelo Gordon, purchased a mezzanine loan and agreed to fund a commitment of \$21.9 million. The Company's share of the commitment is \$14.6 million of which the Company had funded \$10.4 million as of September 30, 2018. As of September 30, 2018, the Company's remaining commitment was \$4.2 million.

On August 29, 2017, the Company, alongside private funds under the management of Angelo Gordon, entered into the MATH LLC Agreement, which requires that MATH fund a capital commitment of \$75.0 million to MATT. The Company's share of MATH's total capital commitment to MATT is \$33.4 million (net of any return of capital to the Company), of which the Company had funded \$14.5 million as of September 30, 2018. As of September 30, 2018, the Company's remaining commitment was \$18.9 million (net of any return of capital to the Company).

On March 29, 2018, the Company alongside private funds under the management of Angelo Gordon, purchased a variable funding note issued pursuant to an indenture. The Company's share of the total commitment to the variable funding note is \$7.1 million, of which the Company has funded \$5.1 million as of September 30, 2018. As of September 30, 2018, the Company's remaining commitment was \$2.0 million.

On June 8, 2018, the Company, alongside private funds under the management of Angelo Gordon and other third parties, entered into a commitment to close on a commercial loan, subject to the satisfaction of certain conditions. The Company's share of the commitment is \$20.0 million. As of September 30, 2018, the conditions had not been met, the loan had not closed and the Company had not funded any of this commitment.

On July 26, 2018, the Company entered into a commitment on a commercial loan. The Company's share of the commitment is \$75.0 million. As of September 30, 2018, the Company has funded \$15.4 million and has a remaining commitment of \$59.6 million.

On September 21, 2018, the Company entered into a commitment on a commercial loan. The Company's share of the commitment is \$36.0 million. As of September 30, 2018, the Company had funded all of its capital commitment.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

In this quarterly report on Form 10-Q, or this "report," we refer to AG Mortgage Investment Trust, Inc. as "we," "us," the "Company," or "our," unless we specifically state otherwise or the context indicates otherwise. We refer to our external manager, AG REIT Management, LLC, as our "Manager," and we refer to the direct parent company of our Manager, Angelo, Gordon & Co., L.P., as "Angelo Gordon."

The following discussion should be read in conjunction with our consolidated financial statements and the accompanying notes to our consolidated financial statements, which are included in Item 1 of this report, as well as the information contained in our Annual Report on Form 10-K for the year ended December 31, 2017.

Forward-looking statements

We make forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), in this report that are subject to substantial known and unknown risks and uncertainties. These forward-looking statements include information about possible or assumed future results of our business, financial condition, liquidity, results of operations, plans, objectives, the composition of our portfolio, actions by governmental entities, including the Federal Reserve, the potential effects of actual and proposed legislation on us, and our views on certain macroeconomic trends. When we use the words "believe," "expect," "anticipate," "estimate," "plan," "continue," "intend," "should," "may" or similar expressions, we intend to identify forward-looking statements.

These forward-looking statements are based upon information presently available to our management and are inherently subjective, uncertain and subject to change. There can be no assurance that actual results will not differ materially from our expectations. Some, but not all, of the factors that might cause such a difference include, but are not limited to, changes in interest rates, changes in the yield curve, changes in prepayment rates, the availability and terms of financing, changes in the market value of our assets, general economic conditions, conditions in the market for Agency RMBS, Non-Agency RMBS, ABS and CMBS securities and loans, our ability to integrate newly acquired rental assets into our investment portfolio, difficulties in identifying single-family properties to acquire, our ability to acquire single-family rental properties generating attractive returns, our ability to predict and control costs, and legislative and regulatory changes that could adversely affect us. We caution investors not to rely unduly on any forward-looking statements, which speak only as of the date made, and urge you to carefully consider the risks noted above and identified under the captions "Risk Factors," and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K for the year ended December 31, 2017 and any subsequent filings, including this one. New risks and uncertainties arise from time to time, and it is impossible for us to predict those events or how they may affect us. Except as required by law, we are not obligated to, and do not intend to, update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. All forward-looking statements that we make, or that are attributable to us, are expressly qualified by this cautionary notice.

Our company

We are a Maryland corporation focused on investing in, acquiring and managing a diversified portfolio of residential mortgage assets, other real estate-related securities, financial assets and real estate, which we refer to as our target assets. We are externally managed by our Manager, a wholly-owned subsidiary of Angelo Gordon, pursuant to a management agreement. Our Manager, pursuant to the delegation agreement dated as of June 29, 2011, has delegated to Angelo Gordon the overall responsibility of its day-to-day duties and obligations arising under the management agreement. We conduct our operations to qualify and be taxed as a real estate investment trust, or REIT, for U.S. federal income tax purposes. Accordingly, we generally will not be subject to U.S. federal income taxes on our taxable income that we distribute currently to our stockholders as long as we maintain our intended qualification as a REIT. We also operate our business in a manner that permits us to maintain our exemption from registration under the Investment Company Act of 1940, as amended, or the Investment Company Act. Our common stock is traded on the New York Stock Exchange, or the NYSE, under the symbol MITT. Our 8.25% Series A Cumulative Redeemable Preferred Stock and our 8.00% Series B Cumulative Redeemable Preferred Stock trade on the NYSE under the ticker symbols MITT-PA and MITT-PB, respectively.

Our investment portfolio

Our investment portfolio is comprised of Agency RMBS, Residential Investments, Commercial Investments, ABS, and Single-family rental properties, each of which is described below.

Agency RMBS

Our investment portfolio is comprised primarily of residential mortgage-backed securities, or RMBS. Certain of the assets in our RMBS portfolio have an explicit guarantee of principal and interest by a U.S. government agency such as the Government National Mortgage Association, or Ginnie Mae, or by a government-sponsored entity such as the Federal National Mortgage Association, or Fannie Mae, or the Federal Home Loan Mortgage Corporation, or Freddie Mac (each, a “GSE”). We refer to these securities as Agency RMBS. Our Agency RMBS portfolio includes:

- Fixed rate securities (held as mortgage pass-through securities);
- Sequential pay fixed rate collateralized mortgage obligations (“CMOs”);
- Inverse Interest Only securities (CMOs where the holder is entitled only to the interest payments made on the mortgages underlying certain mortgage backed securities (“MBS”) whose coupon has an inverse relationship to its benchmark rate, such as LIBOR);
- Interest Only securities (CMOs where the holder is entitled only to the interest payments made on the mortgages underlying certain MBS “interest-only strips”);
- Excess mortgage servicing rights (“Excess MSRs”) whose underlying collateral is securitized in a trust held by a U.S. government agency or GSE; and
- Certain Agency RMBS for which the underlying collateral is not identified until shortly (generally two days) before the purchase or sale settlement date (“TBAs”).

Residential Investments

Our investment portfolio also includes a significant portion of Residential Investments. The Residential Investments that we own include RMBS that are not issued or guaranteed by Ginnie Mae or a GSE, which we refer to as our Non-Agency RMBS. Our Non-Agency RMBS include investment grade and non-investment grade fixed- and floating-rate securities. We categorize certain of our Residential Investments by weighted average credit score at origination:

- Prime (weighted average credit score above 700)
- Alt-A/Subprime
 - Alt-A (weighted average credit score between 700 and 620); and
 - Subprime (weighted average credit score below 620).

The Residential Investments that we do not categorize by weighted average credit score at origination include our:

- CRTs (defined below)
- RPL/NPL Securities (described below)
- Interest Only securities (Non-Agency RMBS backed by interest-only strips)
- Excess MSRs whose underlying collateral is securitized in a trust not held by a U.S. government agency or GSE (grouped with Interest-Only securities throughout this Item 2)
- Re/Non-Performing Loans (described below); and
- New Origination Loans (described below).

Credit Risk Transfer securities (“CRTs”) include:

- Unguaranteed and unsecured mezzanine, junior mezzanine and first loss securities issued either by GSEs or issued by other third-party institutions to transfer their exposure to mortgage default risk to private investors. These securities reference a specific pool of newly originated single-family mortgages from a specified time period (typically around the time of origination). The risk of loss on the reference pool of mortgages is transferred to investors who may experience losses when adverse credit events such as defaults, liquidations or delinquencies occur in the underlying mortgages. Owners of these securities generally receive an uncapped floating interest rate equal to a predetermined spread over one-month LIBOR.

RPL/NPL Securities include:

- Mortgage-backed securities collateralized by re-performing mortgage loans (“RPL”) and/or non-performing mortgage loans (“NPL”). The RPL/NPL that we own represent the senior and mezzanine tranches of such securitizations. These RPL/NPL securitizations are structured with significant credit enhancement (typically, approximately 50% to the senior tranche and 40% to the mezzanine tranche), which mitigates our exposure to credit risk on these securities. “Credit enhancement” refers

to the value of the subordinated tranches available to absorb all credit losses prior to those losses being allocated to more senior tranches. Subordinate tranches typically receive no cash flow (interest or principal) until the senior and mezzanine tranches have been paid off. In addition, the RPL/NPL that we own contain an “interest rate step-up” feature, whereby the interest rate or “coupon” on the senior tranche increases by typically 300 basis points or typically 400 basis points in the case of mezzanine tranches (a “step up”) if the security that we hold has not been redeemed or repurchased by the issuer within 36 months of issuance. We expect that the combination of the priority cash flow of the senior and mezzanine tranches and the 36-month step-up feature will result in these securities exhibiting short average lives and, accordingly, reduced interest rate sensitivity.

Re/Non-Performing Loans include:

- RPLs or NPLs in securitized form that we purchase from an affiliate (or affiliates) of the Manager. The securitizations typically take the form of various classes of notes and a trust certificate. These investments are primarily included in the “RMBS” and “Investments in debt and equity of affiliates” line items on our consolidated balance sheets.
- RPLs or NPLs that we hold through interests in certain consolidated trusts. These investments are primarily included in the “Residential mortgage loans, at fair value” line item on our consolidated balance sheets.

New Origination Loans include:

- “Non-QMs,” which are residential mortgage loans that are not deemed “qualified mortgage,” or “QM,” loans under the rules of the Consumer Financial Protection Bureau (the “CFPB”) that we hold alongside other private funds under the management of Angelo Gordon. Non-QMs are not eligible for delivery to Fannie Mae, Freddie Mac, or Ginnie Mae. These investments are held in one of our unconsolidated subsidiaries, Mortgage Acquisition Trust I LLC (see the “Contractual obligations” section of this Item 2 for more detail), and are included in the “Investments in debt and equity of affiliates” line item on our consolidated balance sheets.

Commercial Investments

We also invest in Commercial Investments. Our Commercial Investments include:

- Commercial mortgage-backed securities, or CMBS;
- Freddie Mac K-Series (described below);
- Interest Only securities (CMBS backed by interest-only strips); and
- Commercial loans.

Freddie Mac K-Series (“K-Series”) include:

- CMBS, Interest-Only securities and CMBS principal-only securities which are regularly-issued by Freddie Mac as structured pass-through securities backed by multifamily mortgage loans. These K-Series feature a wide range of investor options which include guaranteed senior and interest-only bonds as well as unguaranteed senior, mezzanine, subordinate and interest-only bonds. Our K-Series portfolio includes unguaranteed senior, mezzanine, subordinate and interest-only bonds. Throughout Item 2, we categorize our Freddie Mac K-Series interest-only bonds as part of our Interest-Only securities.

ABS

We also invest in asset backed securities, or ABS. Our ABS portfolio may include securities collateralized by various asset classes, including automobiles, credit cards and student loans, among others.

Single-Family Rental Properties

We also invest in Single-Family Rental Properties (“SFR portfolio” or “SFR”). We acquired a stabilized portfolio of single-family rental homes in September 2018 from funds affiliated with Connorex-Lucinda, LLC (“Conrex”). The portfolio includes 1,225 homes located predominately in the Southeast United States. At closing, we entered into a property management services agreement with Conrex whereby Conrex will continue to provide property management services with respect to the properties.

Investment classification

Throughout this Item 2, (1) we use the terms “credit portfolio” and “credit investments” to refer to our Residential Investments, Commercial Investments, ABS and SFR, inclusive of investments held within affiliated entities but exclusive of AG Arc (discussed below); (2) we refer to our Re/Non-Performing Loans (exclusive of our RPLs or NPLs in securitized form that we purchase from an affiliate (or affiliates) of the Manager), new origination loans, and commercial loans, collectively, as our “loans”; (3) we use the term “credit securities” to refer to our credit portfolio, excluding Excess MSRs, loans and SFR; and (4) we use the term “real estate securities” or “securities” to refer to our Agency RMBS portfolio, exclusive of Excess MSRs, and our credit securities. Our “investment portfolio” refers to our combined Agency RMBS portfolio, credit portfolio, and SFR portfolio and encompasses all of the investments described above.

We also use the term “GAAP investment portfolio” which consists of (i) our Agency RMBS, exclusive of (x) TBAs, and (y) any investments classified as “Other assets” on our consolidated balance sheets (our “GAAP Agency RMBS portfolio”), (ii) our credit portfolio, exclusive of (x) all investments held within affiliated entities, and (y) any investments classified as “Other assets” on our consolidated balance sheets (our “GAAP credit portfolio”) and (iii) our SFR portfolio. See Note 2 to the Notes to Consolidated Financial Statements for a discussion of our investments held within affiliated entities.

This presentation of our investment portfolio is consistent with how our management evaluates our business, and we believe this presentation, when considered with the GAAP presentation, provides supplemental information useful for investors in evaluating our investment portfolio and financial condition.

Arc Home LLC

We, alongside private funds under the management of Angelo Gordon, through AG Arc LLC, one of our indirect subsidiaries (“AG Arc”), formed Arc Home LLC (“Arc Home”). Arc Home, through its wholly-owned subsidiary, originates conforming, Government, Jumbo and other non-conforming residential mortgage loans, retains the mortgage servicing rights associated with the loans that it originates, and purchases additional mortgage servicing rights from third-party sellers.

Market overview

During the quarter, MITT’s book value increased primarily due to spread tightening on the credit portfolio, which was partially offset by spread widening in Agency RMBS. Mortgage sectors performed well during the third quarter, as legacy RMBS spreads remained tight due to the favorable supply demand dynamic. The CRT market saw broad-based spread tightening along with the broader markets as well. In a continuation from the second quarter, investors generally favored seasoned CRT deals with comparatively better underwritten collateral versus new issue deals. Agency RMBS widened modestly during the quarter, as benchmark rates rose in response to a more robust consensus outlook for the economy. The uptick in rate volatility was accompanied by a marginal increase in origination and a further reduction of the Federal Reserve’s support of the sector, all of which weighed on market technicals. Money managers continued to provide the primary source of support for Agency RMBS during the quarter.

Housing, economic and interest rate trends

Inclusive of distressed sales, home prices nationwide increased by 5.5% on a year-over-year basis in August 2018 as compared with August 2017, according to data released by CoreLogic. This marks the 79th consecutive monthly increase year-over-year in national home prices. According to CoreLogic’s Homeowner Equity Report, in the second quarter of 2018, U.S. homeowners with mortgages have seen their equity increase by a total of nearly \$981 billion since the second quarter of 2017. In the second quarter of 2018, as compared to the second quarter of 2017, the total number of mortgaged residential properties with negative equity (homes where the homeowner owes more on the home than the home is worth) decreased to 2.2 million homes from 2.8 million homes.

Home prices have benefitted from the persistently tight supply of homes across the nation, and the negative equity epidemic has eased due to the rise in home prices over the past several years. Additionally, credit performance in terms of serious delinquencies and subsequent default rates continued to be stable-to-improving in 2018 as borrowers strengthen household balance sheets and see steady employment gains.

At its September meeting, the Fed raised the federal funds interest rate by 0.25% to a target range of 2.00%-2.25%. Unemployment remains well below 5%, and inflation has improved to levels close to the Fed’s 2.0% target for core PCE. In the September update of the Fed’s Summary of Economic Projections, the median forecast for real GDP growth increased in 2018 and 2019 and remained the same for 2020, while the median forecast for the unemployment rate increased in 2018 and remained the same for 2019 and

2020. The projection of the median Fed Funds rates, based on the individual assessments of the FOMC numbers, was 2.4% in 2018, 3.1% in 2019 and 3.4% in 2020.

The market overview and trends outlined above may have a meaningful impact on our operating results and our existing portfolio and may cause us to adjust our investment and financing strategies over time as new opportunities emerge and the risk profile of our business changes.

Recent government activity

The current regulatory environment may be impacted by future legislative developments, such as amendments to key provisions of the Dodd-Frank Act or changes to Fannie Mae and Freddie Mac, including with respect to how long they will continue to be in existence, the extent of their roles in the market and what forms they will take. The impact of such potential reform on our operations is unknown.

Results of operations

Our operating results can be affected by a number of factors and primarily depend on the size and composition of our investment portfolio, the level of our net interest income, the market value of our assets and the supply of, and demand for, our target assets in the marketplace, which can be impacted by unanticipated credit events, such as defaults, liquidations or delinquencies, experienced by borrowers whose mortgage loans are included in our investment portfolio. Our primary source of net income available to common stockholders is our net interest income, less our cost of hedging, which represents the difference between the interest earned on our investment portfolio and the costs of financing and hedging our investment portfolio. Our net interest income varies primarily as a result of changes in market interest rates, prepayment speeds, as measured by the Constant Prepayment Rate ("CPR") on the Agency RMBS in our investment portfolio, and our funding and hedging costs.

The table below presents certain information from our consolidated statements of operations for the three and nine months ended September 30, 2018 and September 30, 2017 (in thousands, except for share and per share data):

	Three Months Ended September 30, 2018	Three Months Ended September 30, 2017	Nine Months Ended September 30, 2018	Nine Months Ended September 30, 2017
Statement of Operations Data:				
Net Interest Income				
Interest income	\$ 39,703	\$ 33,592	\$ 115,072	\$ 92,773
Interest expense	18,692	11,959	50,289	30,322
Total Net Interest Income	21,011	21,633	64,783	62,451
Other Income/(Loss)				
Net realized gain/(loss)	(14,204)	22	(37,103)	(12,527)
Net interest component of interest rate swaps	1,816	(2,147)	1,607	(5,615)
Unrealized gain/(loss) on real estate securities and loans, net	700	14,893	(36,032)	53,190
Unrealized gain/(loss) on derivative and other instruments, net	6,589	2,423	48,460	4,224
Rental income	794	—	794	—
Other income	1	2	21	34
Total Other Income/(Loss)	(4,304)	15,193	(22,253)	39,306
Expenses				
Management fee to affiliate	2,384	2,454	7,210	7,374
Other operating expenses	3,503	2,603	10,168	8,247
Equity based compensation to affiliate	66	61	211	226
Excise tax	375	375	1,125	1,125
Servicing fees	148	23	232	185
Property depreciation and amortization	494	—	494	—
Property operating and maintenance expenses	232	—	232	—
Property management fee	88	—	88	—
Total Expenses	7,290	5,516	19,760	17,157
Income/(loss) before equity in earnings/(loss) from affiliates	9,417	31,310	22,770	84,600
Equity in earnings/(loss) from affiliates	13,960	4,701	17,023	9,700
Net Income/(Loss)	23,377	36,011	39,793	94,300
Dividends on preferred stock	3,367	3,367	10,102	10,102
Net Income/(Loss) Available to Common Stockholders	\$ 20,010	\$ 32,644	\$ 29,691	\$ 84,198
Share Data:				
Earnings/(Loss) Per Share of Common Stock				
Basic	\$ 0.70	\$ 1.17	\$ 1.05	\$ 3.03
Diluted	\$ 0.70	\$ 1.17	\$ 1.05	\$ 3.03

Net Income/(Loss) Available to Common Stockholders

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

Net income/(loss) available to common stockholders decreased \$12.6 million from \$32.6 million for the three months ended September 30, 2017 to \$20.0 million for the three months ended September 30, 2018, primarily due to lower prices on our securities, which decreased our “Net Realized gain/(loss),” offset by higher derivative prices, which increased our “Unrealized gain/(loss) on derivatives and other instruments, net.”

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

Net income/(loss) available to common stockholders decreased \$54.5 million from \$84.2 million for the nine months ended September 30, 2017 to \$29.7 million for the nine months ended September 30, 2018, primarily due to lower prices on our securities, which decreased our “Net Realized gain/(loss)” and our “Unrealized gain/(loss) on real estate securities and loans, net,” offset by higher derivative prices, which increased our “Unrealized gain/(loss) on derivatives and other instruments, net.”

Interest income

Interest income is calculated using the effective interest method for our GAAP investment portfolio excluding SFR and calculated based on the actual coupon rate and the outstanding principal balance on our U.S. Treasury securities.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

Interest income increased by \$6.1 million from \$33.6 million at September 30, 2017 to \$39.7 million at September 30, 2018 primarily due an increase in the weighted average yield on our GAAP investment portfolio and U.S. Treasury securities, if applicable, during the period of 0.65% from 4.25% at September 30, 2017 to 4.90% at September 30, 2018. The weighted average cost of our GAAP investment portfolio and U.S. Treasury securities period over period remained relatively unchanged.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

Interest income increased by \$22.3 million from \$92.8 million at September 30, 2017 to \$115.1 million at September 30, 2018 primarily due to an increase in the weighted average cost of our GAAP investment portfolio and U.S. Treasury securities period over period by \$0.6 billion from \$2.7 billion at September 30, 2017 to \$3.3 billion at September 30, 2018. This was coupled with an increase in the weighted average yield on our GAAP investment portfolio and U.S. Treasury securities, if applicable, during the period of 0.18% from 4.52% at September 30, 2017 to 4.70% at September 30, 2018.

Interest expense

Interest expense is calculated based on the actual financing rate and the outstanding financing balance of our GAAP investment portfolio and U.S. Treasury securities.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

Interest expense increased by \$6.7 million from \$12.0 million at September 30, 2017 to \$18.7 million at September 30, 2018 primarily due to an increase in the weighted average financing rate on our GAAP investment portfolio and U.S. Treasury securities, if applicable, during the period, by 0.82% from 1.89% at September 30, 2017 to 2.71% at September 30, 2018. This was coupled with an increase in the weighted average financing balance on our GAAP investment portfolio and U.S. Treasury securities during the period of \$0.3 billion from \$2.5 billion at September 30, 2017 to \$2.8 billion at September 30, 2018. Refer to the “Financing activities” section below for a discussion of our cost of funds.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

Interest expense increased by \$20.0 million from \$30.3 million at September 30, 2017 to \$50.3 million at September 30, 2018 primarily due to an increase in the weighted average financing rate on our GAAP investment portfolio and U.S. Treasury securities, if applicable, during the period, by 0.56% from 1.86% at September 30, 2017 to 2.42% at September 30, 2018. This was coupled with an increase in the weighted average financing balance on our GAAP investment portfolio and U.S. Treasury securities during the period of \$0.6 billion from \$2.2 billion at September 30, 2017 to \$2.8 at September 30, 2018. Refer to the “Financing activities” section below for a discussion of our cost of funds.

Net realized gain/(loss)

Net realized gain/(loss) represents the net gain or loss recognized on any (i) sales of real estate securities out of our GAAP investment portfolio, (ii) sales of Residential mortgage loans out of our GAAP investment portfolio, transfers of Residential mortgage loans from our GAAP investment portfolio to real estate owned included in Other assets, and sales of Other assets, (iii) sales of single-family rental properties out of our GAAP investment portfolio, (iv) sales of derivatives and other instruments, and (v) other-than-temporary-impairment (“OTTI”) charges recorded during the period. See Note 2, Note 3 and Note 4 of the Notes to Consolidated Financial Statements (unaudited) for further discussion on OTTI. The following table presents a summary of Net realized gain/(loss) for the three and nine months ended September 30, 2018 and September 30, 2017 (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2018	September 30, 2017	September 30, 2018	September 30, 2017
Sale of real estate securities	\$ (18,053)	\$ 2,365	\$ (47,421)	\$ 1,274
Sale of loans, and loans transferred to or sold from Other assets	1,043	(331)	2,272	1,903
Settlement of derivatives and other instruments	7,796	(42)	14,744	(8,894)
OTTI	(4,990)	(1,970)	(6,698)	(6,810)
Total Net realized gain/(loss)	\$ (14,204)	\$ 22	\$ (37,103)	\$ (12,527)

Net interest component of interest rate swaps

Net interest component of interest rate swaps represents the net interest income received or expense paid on our interest rate swaps.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

Net interest component of interest rate swaps increased by \$3.9 million from \$(2.1) million at September 30, 2017 to \$1.8 million at September 30, 2018 due to an increase in the average 3 month LIBOR rate (receive rate). Average 3 month LIBOR, the interest rate upon which these derivative instruments are based, increased from 1.315 for the three months ended September 30, 2017 to 2.337 for the three months ended September 30, 2018. In addition, the weighted average swap notional increased from \$1.8 billion at September 30, 2017 to \$2.4 billion at September 30, 2018.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

Net interest component of interest rate swaps increased by \$7.2 million from \$(5.6) million at September 30, 2017 to \$1.6 million at September 30, 2018 due to an increase in the average 3 month LIBOR rate (receive rate). Average 3 month LIBOR, the interest rate upon which these derivative instruments are based, increased from 1.197 for the nine months ended September 30, 2017 to 2.200 for the nine months ended September 30, 2018. In addition, the weighted average swap notional increased from \$1.2 billion at September 30, 2017 to \$2.4 billion at September 30, 2018.

Unrealized gain/(loss) on real estate securities and loans, net

Refer to the “Market overview” section of this Item 2 for a discussion of the changes in market pricing which contributed to our “Unrealized gain/(loss) on real estate securities and loans, net” line item. Realized gains and losses on sales of real estate securities and loans can also impact our “Unrealized gain/(loss) on real estate securities and loans, net.”

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018 and September 30, 2017, Unrealized gain/(loss) on real estate securities and loans, net was \$0.7 million and \$14.9 million, respectively. The \$0.7 million at September 30, 2018 was comprised of unrealized gains on securities and unrealized losses on loans of \$1.9 million and \$1.2 million, respectively, during the period.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018 and September 30, 2017, Unrealized gain/(loss) on real estate securities and loans, net was \$(36.0) million and \$53.2 million, respectively. The \$(36.0) million at September 30, 2018 was comprised of unrealized losses on securities and unrealized losses on loans of \$34.4 million and \$1.6 million, respectively, during the period.

Unrealized gain/(loss) on derivative and other instruments, net

Refer to the “Market overview” section of this Item 2 for a discussion of the changes in market pricing which contributed to our “Unrealized gain/(loss) on derivative and other instruments, net” line item. Realized gains and losses on sales of derivative and other investments can also impact our “Unrealized gain/(loss) on derivative and other instruments, net.”

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018 and September 30, 2017, Unrealized gain/(loss) on derivative and other instruments, net was \$6.6 million and \$2.4 million, respectively. The \$6.6 million at September 30, 2018 was comprised of unrealized gains on certain derivatives and other instruments of \$6.6 million.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018 and September 30, 2017, Unrealized gain/(loss) on derivative and other instruments, net was \$48.5 million and \$4.2 million, respectively. The \$48.5 million at September 30, 2018 was comprised of unrealized gains on certain derivatives and other instruments of \$48.4 million, coupled with unrealized gains on TBAs of \$0.1 million during the period.

Rental income

Rental income is accrued monthly on a straight-line basis over the terms of the leases on our SFR portfolio. We acquired a stabilized portfolio of SFR in September 2018.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018, Rental income was \$0.8 million. There was no rental income for the three months ended September 30, 2017.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018, Rental income was \$0.8 million. There was no rental income for the nine months ended September 30, 2017.

Other income

Other income pertains to certain fees we receive on our Residential Whole Loans.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018 and September 30, 2017, Other income remained relatively flat.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018 and September 30, 2017, Other income remained relatively flat.

Management fee to affiliate

Our management fee is based upon a percentage of our Stockholders’ Equity. See the “Contractual obligations” section of this Item 2 for further detail on the calculation of our management fee and for the definition of Stockholders’ Equity.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018 and September 30, 2017, our management fees were \$2.4 million and \$2.5 million, respectively. Management fees decreased slightly due to the decrease in our Stockholders' Equity as calculated pursuant to our Management Agreement.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018 and September 30, 2017, our management fees were \$7.2 million and \$7.4 million, respectively. Management fees decreased slightly due to the decrease in our Stockholders' Equity as calculated pursuant to our Management Agreement.

Other operating expenses

These amounts are primarily comprised of professional fees, directors' and officers' ("D&O") insurance and directors' fees, as well as certain expenses reimbursable to the Manager. We are required to reimburse our Manager or its affiliates for operating expenses which are incurred by our Manager or its affiliates on our behalf, including certain salary expenses and other expenses relating to legal, accounting, due diligence and other services. Refer to the "Contractual obligations" section below for more detail on certain expenses reimbursable to the Manager. The following table presents a summary of certain expenses within Other operating expenses for the three and nine months ended September 30, 2018 and September 30, 2017 (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2018	September 30, 2017	September 30, 2018	September 30, 2017
Affiliate reimbursement				
Operating expenses	\$ 1,628	\$ 1,393	\$ 4,889	\$ 4,728
Deal related expenses	382	34	584	115
Professional fees	572	409	1,789	1,142
Residential mortgage loan related expenses	17	201	848	561
D&O insurance	176	180	533	543
Directors' fees and stock compensation	226	137	645	412
Other expenses	502	249	878	746
Total Other operating expenses	\$ 3,503	\$ 2,603	\$ 10,168	\$ 8,247

Equity based compensation to affiliate

Equity based compensation to affiliates represents the amortization of the fair value of our restricted stock units granted to our Manager remeasured quarterly, less the present value of dividends expected to be paid on the underlying shares through the requisite period.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018 and September 30, 2017, our equity based compensation to affiliate remained relatively flat.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018 and September 30, 2017, our equity based compensation to affiliate remained relatively flat.

Excise tax

Excise tax represents a four percent tax on the required amount of our ordinary income and net capital gains not distributed during the year. The quarterly expense is calculated in accordance with applicable tax regulations.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

Excise tax remained flat period over period for the three months ended September 30, 2018 and September 30, 2017.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

Excise tax remained flat period over period for the nine months ended September 30, 2018 and September 30, 2017.

Servicing fees

We incur servicing fee expenses in connection with the servicing of our Residential mortgage loans. As of September 30, 2018 and September 30, 2017, we owned Residential mortgage loans with fair market value of \$87.6 million and \$23.9 million, respectively. The increase in fair market value pertains to the purchase of a pool of primarily RPLs towards the end of the second quarter of 2018.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018 and September 30, 2017 our servicing fees were \$148,000 and \$23,000, respectively. The increase in fees primarily pertains to purchases of residential mortgage loans in 2018.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018 and September 30, 2017 our servicing fees were \$232,000 and \$185,000, respectively. The increase in fees primarily pertains to purchases of residential mortgage loans in 2018.

Property depreciation and amortization

We recognize straight line depreciation and amortization on our buildings, in-place lease intangibles and any capitalized acquisition, renovation, or other expense that improves or extends the useful life of our SFR portfolio. We acquired a stabilized portfolio of SFR in September 2018.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018, Depreciation and amortization on properties expense was \$0.5 million. There was no depreciation and amortization on properties expense for the three months ended September 30, 2017.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018, Depreciation and amortization on properties expense was \$0.5 million. There was no depreciation and amortization on properties expense for the nine months ended September 30, 2017.

Property operating and maintenance expenses

Property operating and maintenance expenses may include property taxes, insurance, HOA fees, market-level personnel expenses, utility expenses, repairs and maintenance, leasing costs, and marketing expenses on our SFR portfolio. We acquired a stabilized portfolio of SFR in September 2018.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018, Property operating and maintenance expenses were \$0.2 million. There were no property operating and maintenance expenses for the three months ended September 30, 2017.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018, Property operating and maintenance expenses were \$0.2 million. There were no property operating and maintenance expenses for the nine months ended September 30, 2017.

Property management fee

Property management fees represent costs associated with the oversight and management of our SFR portfolio. Our SFR portfolio is managed by Conrex. We acquired a stabilized portfolio of SFR in September 2018.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018, our Property management fee was \$0.1 million. There was no property management fee for the three months ended September 30, 2017.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018, our Property management fee was \$0.1 million. There was no property management fee for the nine months ended September 30, 2017.

Equity in earnings/(loss) from affiliates

Equity in earnings/(loss) from affiliates represents our share of earnings and profits of investments held within affiliated entities. A majority of these investments are comprised of real estate securities, loans and our investment in AG Arc.

Three Months Ended September 30, 2018 compared to the Three Months Ended September 30, 2017

For the three months ended September 30, 2018 and September 30, 2017, we recorded Equity in earnings/(loss) from affiliates of \$14.0 million and \$4.7 million, respectively. The increase primarily pertains to our share of the unrealized gains on investments held within affiliated entities.

Nine Months Ended September 30, 2018 compared to the Nine Months Ended September 30, 2017

For the nine months ended September 30, 2018 and September 30, 2017, we recorded Equity in earnings/(loss) from affiliates of \$17.0 million and \$9.7 million, respectively. The increase primarily pertains to our share of the unrealized gains on investments held within affiliated entities.

Book value per share

As of September 30, 2018, December 31, 2017 and September 30, 2017, our book value per common share was \$19.16, \$19.62 and \$19.35 respectively.

Presentation of investment, financing and hedging activities

In the “Investment activities,” “Financing activities,” “Hedging activities” and “Liquidity and capital resources” sections of this Item 2, where we disclose our investment portfolio and the related financing arrangements that finance it, we have presented this information inclusive of (i) unconsolidated ownership interests in affiliates that are accounted for under GAAP using the equity method and (ii) TBAs, which are accounted for as derivatives under GAAP. Our investment portfolio and the related financing arrangements that finance it are presented along with a reconciliation to GAAP. This presentation of our investment portfolio is consistent with how our management evaluates the business, and we believe this presentation, when considered with the GAAP presentation, provides supplemental information useful for investors in evaluating our investment portfolio and financial condition. See Note 2 to the “Notes to Consolidated Financial Statements (unaudited)” for a discussion of investments in debt and equity of affiliates and TBAs.

Net interest margin and leverage ratio

Our GAAP net interest margin is calculated by subtracting the weighted average cost of funds on our GAAP investment portfolio from the weighted average yield for our GAAP investment portfolio, which excludes cash held by us and any net TBA position. Both elements of cost of funds on our GAAP investment portfolio are weighted by the outstanding financing arrangements on our GAAP investment portfolio, securitized debt, and loan participation payable at quarter-end, exclusive of repurchase agreements associated with U.S. Treasury securities.

Net interest margin, a non-GAAP financial measure, is calculated by subtracting the weighted average cost of funds from the weighted average yield for our investment portfolio, which excludes cash held by us and any net TBA position. The weighted average yield on our real estate securities, loans, and Excess MSRs represents an effective interest rate, which utilizes all estimates of future cash flows and adjusts for actual prepayment and cash flow activity as of quarter-end. The weighted average yield on our SFR portfolio represents annualized net operating income for the quarter. The weighted average cost of funds is the sum of the weighted average funding costs on total financing outstanding at quarter-end and our weighted average hedging cost, which is the weighted average of the net pay rate on our interest rate swaps, the net receive/pay rate on our Treasury long and short positions, respectively, and the net receivable rate on our IO index derivatives, if any. Both elements of cost of funds are weighted by the outstanding financing arrangements on our investment portfolio, securitized debt, and loan participation payable at quarter-end, exclusive of repurchase agreements associated with U.S. Treasury securities.

Net interest margin and leverage ratio can be used to calculate the return on equity of our investment portfolio and Management believes that these metrics should be considered together when evaluating the performance of our investment portfolio. See the “Financing activities” section below for more detail on our leverage ratio.

The chart below sets forth the net interest margin and leverage ratio from our investment portfolio as of September 30, 2018 and September 30, 2017 and for a reconciliation to our GAAP investment portfolio:

September 30, 2018

Weighted Average	GAAP Investment Portfolio	Other Assets	Investments in Debt and Equity of Affiliates	Investment Portfolio**
Yield*	5.14%	—%	6.66%	5.24%
Cost of Funds	2.67%	—%	4.70%	2.75%
Net Interest Margin	2.47%	—%	1.96%	2.49%
Leverage Ratio	4.0x	N/A	***	4.3x

September 30, 2017

Weighted Average	GAAP Investment Portfolio	Other Assets	Investments in Debt and Equity of Affiliates	Investment Portfolio**
Yield	4.49%	7.58%	13.74%	4.69%
Cost of Funds	2.12%	—	3.51%	2.12%
Net Interest Margin	2.37%	7.58%	10.23%	2.57%
Leverage Ratio	4.0x	N/A	***	4.2x

*Yield of 6.09% on SFR portfolio is based on net operating income.

**Excludes any net TBA position.

***Refer to the “Financing activities” section below for an aggregate breakout of leverage.

Core Earnings

We define core earnings, a non-GAAP financial measure, as Net Income/(loss) available to common stockholders excluding (i) unrealized and realized gains/(losses) on the sale or termination of securities, loans, derivatives and other instruments, (ii) beginning with Q2 2018, any transaction related expenses incurred in connection with the acquisition or disposition of our investments, (iii) beginning with Q3 2018, any depreciation or amortization expense related to our SFR portfolio, and (iv) beginning with Q3 2018, accrued deal related performance fees payable to Arc Home and third party operators to the extent the primary component of the accrual relates to items that are excluded from core earnings, such as unrealized and realized gains/(losses). Items (i) through (iv) above include any amounts related to those items held in affiliated entities. Management considers the transaction related expenses referenced in (ii) above to be similar to realized losses incurred at acquisition or disposition and does not view them as being part of its core operations. As defined, Core Earnings include the net interest income and other income earned on our investments on a yield adjusted basis, including TBA dollar roll income or any other investment activity that may earn or pay net interest or its economic equivalent. One of our objectives is to generate net income from net interest margin on the portfolio, and management uses Core Earnings to help measure this objective. Management believes that this non-GAAP measure, when considered with our GAAP financials, provides supplemental information useful for investors in evaluating our results of operations. This metric, in conjunction with related GAAP measures, provides greater transparency into the information used by our management team in its financial and operational decision-making. Our presentation of Core Earnings may not be comparable to similarly-titled measures of other companies, who may use different calculations. This non-GAAP measure should not be considered a substitute for, or superior to, the financial measures calculated in accordance with GAAP. Our GAAP financial results and the reconciliations from these results should be carefully evaluated. Refer to the “Results of Operations” section above for a detailed discussion of our GAAP financial results.

A reconciliation of “Net Income/(loss) available to common stockholders” to Core Earnings for the three and nine months ended September 30, 2018 and September 30, 2017 is set forth below (in thousands, except for share and per share data):

	Three Months Ended September 30, 2018	Three Months Ended September 30, 2017	Nine Months Ended September 30, 2018	Nine Months Ended September 30, 2017
Net Income/(loss) available to common stockholders	\$ 20,010	\$ 32,644	\$ 29,691	\$ 84,198
Add (Deduct):				
Net realized (gain)/loss	14,204	(22)	37,103	12,527
Dollar roll income	453	1,525	1,598	2,626
Equity in (earnings)/loss from affiliates	(13,960)	(4,701)	(17,023)	(9,700)
Net interest income and expenses from equity method investments (a)	2,586	2,196	8,685	6,458
Transaction related expenses and deal related performance fees (b)(c)	216	—	530	—
Property depreciation and amortization	494	—	494	—
Unrealized (gain)/loss on real estate securities and loans, net	(700)	(14,893)	36,032	(53,190)
Unrealized (gain)/loss on derivative and other instruments, net	(6,589)	(2,423)	(48,460)	(4,224)
Core Earnings	\$ 16,714	\$ 14,326	\$ 48,650	\$ 38,695
Core Earnings, per Diluted Share	\$ 0.59	\$ 0.51	\$ 1.72	\$ 1.39

(a) For the three months ended September 30, 2018, we recognized \$0.3 million or \$0.01 per diluted share of net income/(loss) attributed to our investment in AG Arc. For the nine months ended September 30, 2018, we recognized \$0.7 million or \$0.02 per diluted share of net income/(loss) attributed to our investment in AG Arc. For the three months ended September 30, 2017, we recognized \$0.1 million or \$0.00 per diluted share of net income/(loss) attributed to our investment in AG Arc. For the nine months ended September 30, 2017, we recognized \$0.5 million or \$0.02 per diluted share of net income/(loss) attributed to our investment in AG Arc.

(b) For the three months ended September 30, 2017, transaction related expenses were excluded from the above chart as they did not have a material impact on core earnings for the period. For the nine months ended September 30, 2017, transaction related expenses of \$0.1 million were excluded from the above chart and did not have a material impact on core earnings for those periods. For the three months ended March 31, 2018, transaction related expenses of \$0.1 million were excluded from the above chart and did not have a material impact on core earnings for that period.

- (c) For the three and nine months ended September 30, 2017, deal related performance fees were excluded from the above chart as they did not have a material impact on core earnings for those periods. For the six months ended June 30, 2018, deal related performance fees were excluded from the above chart as they did not have a material impact on core earnings for that period.

Investment activities

We evaluate investments in Agency RMBS using factors including expected future prepayment trends, supply of and demand for Agency RMBS, costs of financing, costs of hedging, expected future interest rate volatility and the overall shape of the U.S. Treasury and interest rate swap yield curves. Prepayment speeds, as reflected by the CPR and interest rates vary according to the type of investment, conditions in financial markets, competition and other factors, none of which can be predicted with any certainty. In general, as prepayment speeds on our Agency RMBS portfolio increase, the related purchase premium amortization increases, thereby reducing the net yield on such assets.

Our credit investments are subject to risk of loss with regard to principal and interest payments. We evaluate each investment in our credit portfolio based on the characteristics of the underlying collateral and the securitization structure. We maintain a comprehensive portfolio management process that generally includes day-to-day oversight by the portfolio management team and a quarterly credit review process for each investment that examines the need for a potential reduction in accretable yield, missed or late contractual payments, significant declines in collateral performance, prepayments, projected defaults, loss severities and other data which may indicate a potential issue in our ability to recover our capital from the investment. These processes are designed to enable our Manager to evaluate and proactively manage asset-specific credit issues and identify credit trends on a portfolio-wide basis. Nevertheless, we cannot be certain that our review will identify all issues within our portfolio due to, among other things, adverse economic conditions or events adversely affecting specific assets. Therefore, potential future losses may also stem from issues with our investments that are not identified by our credit reviews.

Our SFR portfolio is comprised of 1,225 homes located predominantly in the Southeast United States. The values of these homes 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, local real estate conditions, construction quality, age and design; demographic factors; and retroactive changes to building or similar codes.

The risk-reward profile of our investment opportunities changes continuously with the market, including with labor, housing and economic fundamentals and U.S. monetary policy. As a result, in reacting to market conditions and taking into account a variety of other factors, including liquidity, duration, interest rate expectations and hedging, the mix of our assets changes over time.

As of September 30, 2018, we had a \$3.4 billion GAAP investment portfolio, which consisted of \$2.1 billion, or 60.2%, of assets in our GAAP Agency RMBS portfolio, \$1.2 billion, or 35.7%, of assets in our GAAP credit portfolio and \$0.1 billion, or 4.1%, of assets in our SFR portfolio. As of September 30, 2018, our investment portfolio totaled \$3.7 billion, which consisted of \$2.1 billion, or 58.4%, of assets in our Agency RMBS portfolio, \$1.5 billion, or 37.8%, of assets in our credit portfolio and \$0.1, or 3.8%, in our SFR portfolio. This compares with a \$3.6 billion GAAP investment portfolio as of December 31, 2017, which consisted of \$2.3 billion, or 62.7%, of assets in our GAAP Agency RMBS portfolio and \$1.3 billion, or 37.3%, of assets in our GAAP credit portfolio. As of December 31, 2017, our investment portfolio totaled \$3.8 billion, which consisted of \$2.4 billion, or 62.3%, of assets in our Agency RMBS portfolio and \$1.4 billion, or 37.7%, of assets in our credit portfolio.

The following table presents a break-down of our investment portfolio as of September 30, 2018 and December 31, 2017 (in thousands):

	Amortized Cost		Carrying Value (a)		Weighted Average Yield (b)		Weighted Average Funding Cost (c)		Net Interest Margin (c)		Leverage Ratio (d)	
	September 30, 2018	December 31, 2017	September 30, 2018	December 31, 2017	September 30, 2018	December 31, 2017	September 30, 2018	December 31, 2017	September 30, 2018	December 31, 2017	September 30, 2018	December 31, 2017
Agency RMBS \$	2,163,578	\$ 2,354,789	\$ 2,136,779	\$ 2,354,915	3.90%	3.27%	2.28%	1.56%	1.62%	1.71%	6.7x	7.5x
Residential Investments	904,260	969,743	962,249	1,034,816	6.74%	6.24%	3.57%	2.77%	3.17%	3.47%	3.0x	3.3x
Commercial Investments	368,870	345,214	383,762	351,594	7.93%	8.26%	3.68%	2.90%	4.25%	5.36%	2.3x	1.1x
ABS	37,277	40,217	37,544	40,958	9.36%	8.27%	3.61%	2.93%	5.75%	5.34%	1.0x	1.3x
Single-Family Rental Properties	140,059	—	140,059	—	6.09%	—%	4.80%	—%	1.29%	—%	2.7x	—
Total: Investment Portfolio \$	3,614,044	\$ 3,709,963	\$ 3,660,393	\$ 3,782,283	5.24%	4.64%	2.75%	2.26%	2.49%	2.38%	4.3x	4.4x
Investments in Debt and Equity of Affiliates (e) \$	163,038	\$ 83,434	\$ 163,601	\$ 85,291	6.66%	12.32%	4.70%	3.80%	1.96%	8.52%	(e)	(e)
Other Assets \$	—	\$ 238	\$ —	\$ 242	—	10.03%	N/A	N/A	—	10.03%	N/A	N/A
TBAs \$	75,598	\$ 102,484	\$ 75,727	\$ 102,711	N/A	N/A	N/A	N/A	N/A	N/A	(e)	(e)
Total: GAAP Investment Portfolio \$	3,375,408	\$ 3,523,807	\$ 3,421,065	\$ 3,594,039	5.14%	4.45%	2.67%	2.26%	2.47%	2.19%	4.0x	4.2x

- (a) Carrying value represents fair value, except in the case of Single-family rental properties, which represents cost less accumulated depreciation and amortization.
- (b) Yield of 6.09% on SFR portfolio is based on net operating income.
- (c) Funding cost and NIM shown in each investment category line exclude the costs of our interest rate hedges, however these costs are included in the total funding cost and NIM lines. As of September 30, 2018, the total funding cost and NIM lines excluding the cost of our interest rate hedges would be 2.82% and 2.42%, respectively. As of December 31, 2017, the total funding cost and NIM lines excluding the cost of our interest rate hedges would be 1.98% and 2.66%, respectively.
- (d) The leverage ratio on Agency RMBS includes any net receivables on TBA. The leverage ratio by type of investment is calculated based on allocated equity.
- (e) Refer to the "Financing activities" section below for an aggregate breakout of leverage. During Q3 2018, the Company transferred certain of its CMBS from its non-wholly owned subsidiaries to a consolidated entity, resulting in those investments being reflected in the "Commercial Investments" line item of this chart and not in the "Investments in Debt and Equity of Affiliates" line item.
- (f) Net of any non-recourse securitized debt as applicable.

In managing our portfolio, we allocate our equity by investment using the fair market value of our investment portfolio, less any associated leverage, inclusive of any long TBA position (at cost). We allocate all non-investment portfolio related items based on their respective characteristics in order to sum to stockholders' equity per the consolidated balance sheets. Our equity allocation method is a non-GAAP methodology and may not be comparable to the similarly titled measure or concepts of other companies, who may use different calculations.

The following table presents a summary of the allocated equity of our investment portfolio as of September 30, 2018 and December 31, 2017 (in thousands):

	Allocated Equity		Percent of Equity	
	September 30, 2018	December 31, 2017	September 30, 2018	December 31, 2017
Agency RMBS \$	285,447	\$ 280,336	40.1%	39.2%
Residential Investments	251,290	245,934	35.3%	34.5%
Commercial Investments	117,200	169,953	16.5%	23.8%
ABS	19,399	18,036	2.7%	2.5%
Single-Family Rental Properties	38,536	—	5.4%	—%
Total \$	711,872	\$ 714,259	100.0%	100.0%

The following table presents a reconciliation of our investment portfolio, exclusive of SFR, to our GAAP investment portfolio, exclusive of SFR, as of September 30, 2018 (in thousands):

Instrument	Current Face	Amortized Cost	Unrealized Mark-to-Market	Fair Value (1)	Weighted Average Coupon (2)	Weighted Average Yield	Weighted Average Life (Years) (3) (4)
Agency RMBS:							
30 Year Fixed Rate	\$ 1,740,991	\$ 1,785,093	\$ (22,624)	\$ 1,762,469	3.99%	3.61%	9.48
Fixed Rate CMO	46,042	46,392	(1,069)	45,323	3.00%	2.79%	4.10
ARM	108,008	108,514	(2,693)	105,821	2.41%	2.87%	4.55
Inverse Interest Only	316,940	54,667	(2,186)	52,481	3.98%	8.30%	7.26
Interest Only	383,921	64,964	657	65,621	3.54%	7.27%	5.32
Excess MSR (5)	3,828,737	28,350	987	29,337	N/A	11.33%	7.02
Fixed Rate 30 Year TBA (6)	75,000	75,598	129	75,727	4.00%	N/A	N/A
Credit Investments:							
Residential Investments							
Prime (7)	402,184	298,105	32,831	330,936	4.77%	7.11%	11.16
Alt-A/Subprime (7)	230,811	144,392	13,504	157,896	4.82%	6.23%	6.81
Credit Risk Transfer	120,275	120,427	8,767	129,194	5.78%	5.98%	5.12
RPL/NPL Securities	75,278	75,278	(752)	74,526	3.38%	3.38%	1.31
Interest Only and Excess MSR (8)	358,372	3,427	667	4,094	0.56%	26.59%	5.66
Re/Non-Performing Loans	263,488	200,724	2,648	203,372	4.25%	8.36%	5.18
New Origination Loans	60,202	61,907	324	62,231	6.27%	5.05%	3.28
Commercial Investments							
CMBS	199,541	157,625	(274)	157,351	5.93%	6.39%	3.44
Freddie Mac K-Series	196,968	67,654	13,034	80,688	5.91%	12.23%	9.65
Interest Only (9)	3,470,363	48,980	2,125	51,105	0.25%	6.81%	3.48
Commercial Loans	94,618	94,611	7	94,618	7.20%	7.43%	1.14
ABS	37,453	37,277	267	37,544	8.79%	9.36%	4.54
Total: Investment Portfolio excluding SFR	\$ 12,009,192	\$ 3,473,985	\$ 46,349	\$ 3,520,334	2.38%	5.20%	6.18
Investments in Debt and Equity of Affiliates	\$ 430,616	\$ 163,038	\$ 563	\$ 163,601	3.87%	6.66%	5.22
TBA	\$ 75,000	\$ 75,598	\$ 129	\$ 75,727	4.00%	N/A	N/A
Total: GAAP Investment Portfolio, excluding SFR	\$ 11,503,576	\$ 3,235,349	\$ 45,657	\$ 3,281,006	2.32%	5.10%	6.21

(1) Included in Agency RMBS, Residential Investments and Commercial Investments are \$0.9 million fair market value, \$159.6 million fair market value and \$3.1 million fair market value, respectively, net of any non-recourse securitized debt, that are included in the "Investments in debt and equity of affiliates" line item on our consolidated balance sheet.

These items, inclusive of our investment in AG Arc and other items, net to \$79.7 million which is included in the “Investments in debt and equity of affiliates” line item on our consolidated balance sheet.

- (2) Equity residuals, principal only securities and Excess MSR with a zero coupon rate are excluded from this calculation.
- (3) Fixed Rate 30 Year TBA are excluded from this calculation.
- (4) Actual maturities of investments and loans are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (5) Excess MSR whose underlying collateral is securitized in a trust held by a U.S. government agency or GSE.
- (6) Represents long positions in Fixed Rate 30 Year TBA.
- (7) Non-Agency RMBS with credit scores above 700, between 700 and 620 and below 620 at origination are classified as Prime, Alt-A, and Subprime, respectively. The weighted average credit scores of our Prime and Alt-A/Subprime Non-Agency RMBS were 719 and 666, respectively.
- (8) Excess MSR whose underlying collateral is securitized in a trust not held by a U.S. government agency or GSE.
- (9) Includes Freddie Mac K-Series interest-only bonds.

The following table presents a reconciliation of our investment portfolio to our GAAP investment portfolio as of December 31, 2017 (in thousands):

Instrument	Current Face	Amortized Cost	Unrealized Mark-to-Market	Fair Value (1)	Weighted Average Coupon (2)	Weighted Average Yield	Weighted Average Life (Years) (3) (4)
Agency RMBS:							
30 Year Fixed Rate	\$ 1,848,172	\$ 1,929,306	\$ (273)	\$ 1,929,033	3.79%	3.13%	8.64
Fixed Rate CMO	52,264	52,670	281	52,951	3.00%	2.79%	4.13
ARM	176,561	175,726	661	176,387	2.35%	2.83%	4.79
Inverse Interest Only	256,983	44,704	(775)	43,929	4.20%	7.37%	5.86
Interest Only	387,256	45,182	(321)	44,861	2.66%	6.32%	4.38
Excess MSR (5)	822,600	4,717	326	5,043	N/A	12.12%	6.27
Fixed Rate 30 Year TBA (6)	100,000	102,484	227	102,711	3.50%	N/A	N/A
Credit Investments:							
Residential Investments							
Prime (7)	550,559	437,068	35,802	472,870	4.43%	6.34%	9.72
Alt-A/Subprime (7)	311,153	216,422	16,196	232,618	4.10%	5.91%	6.46
Credit Risk Transfer	149,710	149,786	10,712	160,498	5.11%	5.28%	5.87
RPL/NPL Securities	67,999	67,968	(92)	67,876	3.50%	3.57%	1.40
Interest Only and Excess MSR (8)	421,605	3,579	(634)	2,945	0.30%	11.58%	3.13
Re/Non-Performing Loans	122,478	90,995	3,089	94,084	5.16%	9.59%	6.57
New Origination Loans	3,822	3,925	—	3,925	5.50%	5.50%	3.20
Commercial Investments							
CMBS	214,052	162,226	(271)	161,955	5.48%	6.16%	3.58
Freddie Mac K-Series	210,838	68,970	2,110	71,080	5.84%	13.54%	9.68
Interest Only (9)	3,493,579	57,384	3,654	61,038	0.27%	6.64%	3.70
Commercial Loans	57,738	56,634	887	57,521	8.20%	9.41%	1.76
ABS	40,655	40,217	741	40,958	7.61%	8.27%	5.43
Total: Investment Portfolio	\$ 9,288,024	\$ 3,709,963	\$ 72,320	\$ 3,782,283	2.20%	4.64%	5.65
Investments in Debt and Equity of Affiliates	\$ 1,690,414	\$ 83,434	\$ 1,857	\$ 85,291	0.19%	12.32%	5.77
Other Assets	\$ 54,215	\$ 238	\$ 4	\$ 242	N/A	10.03%	5.89
TBAs	\$ 100,000	\$ 102,484	\$ 227	\$ 102,711	3.50%	N/A	N/A
Total: GAAP Investment Portfolio	\$ 7,443,395	\$ 3,523,807	\$ 70,232	\$ 3,594,039	2.65%	4.45%	5.64

- (1) Included in Residential Investments and Commercial Investments are \$11.4 million fair market value and \$73.9 million fair market value, respectively, that are included in the “Investments in debt and equity of affiliates” line item on our consolidated balance sheet. These items, inclusive of our investment in AG Arc and other items, net to \$99.7 million which is included in the “Investments in debt and equity of affiliates” line item on our consolidated balance sheet.
- (2) Equity residuals, principal only securities and Excess MSR with a zero coupon rate are excluded from this calculation.
- (3) Fixed Rate 30 Year TBA are excluded from this calculation.

- (4) Actual maturities of investments and loans are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (5) Excess MSR's whose underlying collateral is securitized in a trust held by a U.S. government agency or GSE.
- (6) Represents long positions in Fixed Rate 30 Year TBA.
- (7) Non-Agency RMBS with credit scores above 700, between 700 and 620 and below 620 at origination are classified as Prime, Alt-A, and Subprime, respectively. The weighted average credit scores of our Prime and Alt-A/Subprime Non-Agency RMBS were 726 and 656, respectively.
- (8) Excess MSR's whose underlying collateral is securitized in a trust not held by a U.S. government agency or GSE.
- (9) Includes Freddie Mac K-Series interest-only bonds.

The following table presents the CPR experienced on our GAAP Agency RMBS portfolio, on an annualized basis, for the quarterly periods presented:

Agency RMBS	Three Months Ended (1) (2)	
	September 30, 2018	September 30, 2017
30 Year Fixed Rate	6%	6%
Fixed Rate CMO	9%	12%
ARM	10%	13%
Interest Only	6%	14%
Weighted Average	6%	7%

- (1) Represents the weighted average monthly CPRs published during the quarter for our in-place portfolio during the same period.
- (2) Source: Bloomberg

The following table presents certain information grouped by vintage as it relates to our credit securities portfolio as of September 30, 2018 (in thousands). We have also presented a reconciliation to GAAP.

Credit Securities:	Current Face	Amortized Cost	Unrealized Mark-to-Market	Fair Value (1)	Weighted Average Coupon (2)	Weighted Average Yield	Weighted Average Life (Years) (3)
Pre 2009	455,936	320,005	33,621	353,626	4.92%	6.62%	10.41
2010	1,532	1,354	15	1,369	2.26%	5.66%	2.97
2011	6,358	5,575	25	5,600	4.28%	6.12%	5.04
2012	5,346	4,450	594	5,044	4.24%	6.40%	3.62
2013	72,589	14,405	1,460	15,865	2.10%	7.52%	3.00
2014	1,003,081	40,434	3,773	44,207	0.32%	10.03%	1.14
2015	1,163,176	116,654	14,737	131,391	0.75%	9.28%	4.52
2016	1,320,329	134,306	11,553	145,859	0.90%	7.67%	5.01
2017	895,608	271,205	7,114	278,319	1.77%	6.81%	5.32
2018	281,548	154,818	(605)	154,213	2.81%	6.57%	4.24
Total: Credit Securities	\$ 5,205,503	\$ 1,063,206	\$ 72,287	\$ 1,135,493	1.37%	7.24%	4.61
Investments in Debt and Equity of Affiliates	\$ 201,905	\$ 97,052	\$ (7)	\$ 97,045	2.62%	7.79%	4.46
Total: GAAP Basis	\$ 5,003,598	\$ 966,154	\$ 72,294	\$ 1,038,448	1.33%	7.19%	4.62

- (1) Net of any non-recourse securitized debt.
- (2) Equity residual investments and principal only securities are excluded from this calculation.
- (3) Actual maturities of mortgage-backed securities are generally shorter than stated contractual maturities. Actual maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.

The following table presents certain information grouped by vintage as it relates to our credit securities portfolio as of December 31, 2017 (in thousands). We have also presented a reconciliation to GAAP.

Credit Securities:	Current Face	Amortized Cost	Unrealized Mark-to-Market	Fair Value	Weighted Average Coupon (1)	Weighted Average Yield	Weighted Average Life (Years) (2)
Pre 2009	570,127	415,152	38,219	453,371	4.62%	6.55%	9.69
2010	1,855	1,648	(1)	1,647	1.69%	5.70%	3.35
2011	6,953	6,059	(112)	5,947	3.50%	4.48%	5.72
2012	72,881	10,355	768	11,123	1.97%	6.31%	2.45
2013	109,464	41,716	1,874	43,590	2.48%	5.56%	3.80
2014	1,065,779	61,073	6,949	68,022	0.34%	11.08%	1.55
2015	1,341,477	234,963	8,266	243,229	1.01%	6.57%	3.85
2016	1,359,009	160,539	8,006	168,545	0.81%	6.95%	5.33
2017	970,500	339,345	6,284	345,629	1.84%	5.84%	5.92
Total: Credit Portfolio	\$ 5,498,045	\$ 1,270,850	\$ 70,253	\$ 1,341,103	1.38%	6.61%	4.72
Investments in Debt and Equity of Affiliates	\$ 1,677,993	\$ 73,887	\$ 1,833	\$ 75,720	0.13%	13.05%	5.77
Total: GAAP Basis	\$ 3,820,052	\$ 1,196,963	\$ 68,420	\$ 1,265,383	1.89%	6.22%	4.26

(1) Equity residual investments and principal only securities are excluded from this calculation.

(2) Actual maturities of mortgage-backed securities are generally shorter than stated contractual maturities. Actual maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.

The following table presents the fair value of our credit securities portfolio by credit rating as of September 30, 2018 and December 31, 2017 (in thousands):

Credit Rating - Credit Securities (1)	September 30, 2018 (2)	December 31, 2017
AAA	\$ 7,001	\$ 69,582
A	46,758	49,000
BBB	16,902	10,763
BB	65,053	65,784
B	178,797	183,944
Below B	265,026	370,699
Not Rated	555,956	591,331
Total: Credit Securities	\$ 1,135,493	\$ 1,341,103
Investments in Debt and Equity of Affiliates	\$ 97,045	\$ 75,720
Total: GAAP Basis	\$ 1,038,448	\$ 1,265,383

(1) Represents the minimum rating for rated assets of S&P, Moody and Fitch credit ratings, stated in terms of the S&P equivalent.

(2) Net of any non-recourse securitized debt.

The following tables present the geographic concentration of the underlying collateral for our Non-Agency RMBS and CMBS portfolios:

September 30, 2018

Non-Agency RMBS		CMBS	
State	Percentage	State	Percentage
California	22.7%	California	12.1%
New York	7.5%	Texas	10.3%
Florida	7.0%	Florida	9.1%
Colorado	4.0%	New Jersey	7.5%
Georgia	3.6%	New York	7.1%
Other	55.2%	Other	53.9%
Total	100.0%	Total	100.0%

December 31, 2017

Non-Agency RMBS		CMBS	
State	Percentage	State	Percentage
California	22.6%	California	12.5%
Florida	7.8%	Texas	9.4%
New York	7.2%	New York	7.7%
Colorado	4.0%	Arizona	7.5%
Texas	3.9%	New Jersey	6.8%
Other	54.5%	Other	56.1%
Total	100.0%	Total	100.0%

See Note 4 to the Consolidated Financial Statements (unaudited) for a breakout of geographic concentration of credit risk within loans we include in the “Residential mortgage loans, at fair value” line item on our consolidated balance sheets.

The following tables present certain information regarding credit quality for certain categories within our Non-Agency RMBS and CMBS portfolios:

September 30, 2018

Non-Agency RMBS*			
Category	Weighted Average 60+ Days Delinquent	Weighted Average Loan Age (Months)	Weighted Average Credit Enhancement
Prime	10.2%	131.7	12.9%
Alt-A/Subprime	15.0%	155.3	22.7%
Credit Risk Transfer	0.4%	27.8	1.3%
RPL/NPL Securities	65.7%	143.6	41.3%

CMBS*

Category	Weighted Average 60+ Days Delinquent	Weighted Average Loan Age (Months)	Weighted Average Credit Enhancement
CMBS	1.8%	26.6	15.3%
Freddie Mac K Series	0.4%	37.2	0.6%

December 31, 2017

Non-Agency RMBS*

Category	Weighted Average 60+ Days Delinquent	Weighted Average Loan Age (Months)	Weighted Average Credit Enhancement
Prime	9.5%	114.5	14.5%
Alt-A/Subprime	16.0%	143.6	28.4%
Credit Risk Transfer	0.3%	19.7	1.1%
RPL/NPL Securities	73.3%	108.9	40.7%

CMBS*

Category	Weighted Average 60+ Days Delinquent	Weighted Average Loan Age (Months)	Weighted Average Credit Enhancement
CMBS	4.2%	37.1	18.5%
Freddie Mac K Series	0.0%	31.2	0.8%

*Sources: Intex, Trepp

The following table presents certain information on our SFR portfolio as of September 30, 2018.

State	Number of Homes	Average Occupancy	Average Monthly Rent	% of Rental Income
South Carolina	436	88.1%	\$ 1,069	37.8%
Alabama	296	91.2%	983	23.6%
Georgia	210	91.9%	909	15.4%
North Carolina	121	85.1%	954	9.4%
Ohio	70	92.9%	1,068	6.1%
Indiana	49	91.8%	1,057	4.2%
Tennessee	43	79.1%	1,016	3.5%
Total	1,225	89.3%	\$ 1,007	100.0%

Financing activities

We use leverage to complete the purchase of real estate, real estate securities, and loans in our investment portfolio. In 2018 and 2017, our leverage has primarily been in the form of repurchase agreements, facilities, and securitized debt. Repurchase agreements involve the sale and a simultaneous agreement to repurchase the transferred assets or similar assets at a future date. The amount borrowed generally is equal to the fair value of the assets pledged less an agreed-upon discount, referred to as a "haircut." The size of the haircut reflects the perceived risk associated with the pledged asset. Haircuts may change as our financing arrangements mature or roll and are sensitive to governmental regulations. We did not experience fluctuations in our haircuts that caused us to alter our business and financing strategies for the three and nine months ended September 30, 2018, but we continue to monitor the regulatory environment, which may influence the timing and amount of our financing activity. We seek to obtain financing from multiple different counterparties in order to reduce our financing risk related to any single counterparty. We had outstanding debt with 31 and 27 counterparties at September 30, 2018 and December 31, 2017, respectively.

A vast majority of our financing arrangements are repurchase agreements. Our repurchase agreements are accounted for as financings and require the repurchase of the transferred securities or loans or repayment of the advance at the end of each agreement's term, typically 30 to 90 days. If we maintain the beneficial interest in the specific assets pledged during the term of the borrowing, we receive the related principal and interest payments. If we do not maintain the beneficial interest in the specific assets pledged during the term of the borrowing, we will have the related principal and interest payments remitted to us by the lender. Interest rates on borrowings are fixed based on prevailing rates corresponding to the terms of the borrowings, and interest is paid at the termination of the borrowing at which time we may enter into a new borrowing arrangement at prevailing market rates with the

same counterparty or repay that counterparty and negotiate financing with a different counterparty. In response to declines in fair value of pledged assets due to changes in market conditions or the publishing of monthly security paydown factors, lenders typically require us to post additional assets as collateral, pay down borrowings or establish cash margin accounts with the counterparties in order to re-establish the agreed-upon collateral requirements, referred to as margin calls. As of September 30, 2018 and December 31, 2017, we have met all margin call requirements.

For the nine months ended September 30, 2018, we noted changes in the spread of our financing arrangements. The Fed raised the federal funds interest rate by 25 bps in each of March, June and September of 2018. As a result, our cost of financing increased by 83bps from 1.98% at December 31, 2017 to 2.81% at September 30, 2018.

The following table presents the quarter-end balance, average quarterly balance and maximum balance at any month-end for the Company's (i) financing arrangements on its investment portfolio, U.S Treasury securities, and FHLBC Advances, and (ii) financing arrangements through affiliated entities, excluding any financing utilized in our investment in AG Arc, with a reconciliation of all quarterly figures to GAAP. Refer to the "Hedging Activities" section below for more information on repurchase agreements secured by U.S. Treasury securities.

Quarter Ended		Quarter-End Balance	Average Quarterly Balance	Maximum Balance at Any Month-End
	September 30, 2018			
	Non-GAAP Basis	\$ 3,015,530	\$ 2,896,931	\$ 3,015,530
	Less: Investments in Debt and Equity of Affiliates	102,149	92,833	102,149
	GAAP Basis	\$ 2,913,381	\$ 2,804,098	\$ 2,913,381
	June 30, 2018			
	Non-GAAP Basis	\$ 2,719,376	\$ 2,792,123	\$ 2,932,186
	Less: Investments in Debt and Equity of Affiliates	85,194	170,006	213,489
	GAAP Basis	\$ 2,634,182	\$ 2,622,117	\$ 2,718,697
	March 31, 2018			
	Non-GAAP Basis	\$ 3,035,398	\$ 2,954,404	\$ 3,043,392
	Less: Investments in Debt and Equity of Affiliates	208,819	77,309	208,819
	GAAP Basis	\$ 2,826,579	\$ 2,877,095	\$ 2,834,573
	December 31, 2017			
	Non-GAAP Basis	\$ 3,011,591	\$ 2,882,548	\$ 3,011,591
	Less: Investments in Debt and Equity of Affiliates	7,184	8,849	9,807
	GAAP Basis	\$ 3,004,407	\$ 2,873,699	\$ 3,001,784
	September 30, 2017			
	Non-GAAP Basis	\$ 2,703,069	\$ 2,596,533	\$ 2,746,151
	Less: Investments in Debt and Equity of Affiliates	8,517	8,697	8,869
	GAAP Basis	\$ 2,694,552	\$ 2,587,836	\$ 2,737,282
	June 30, 2017			
	Non-GAAP Basis	\$ 2,265,227	\$ 2,209,991	\$ 2,339,133
	Less: Investments in Debt and Equity of Affiliates	8,485	8,806	9,116
	GAAP Basis	\$ 2,256,742	\$ 2,201,185	\$ 2,330,017
	March 31, 2017			
	Non-GAAP Basis	\$ 1,887,767	\$ 1,813,668	\$ 1,887,766
	Less: Investments in Debt and Equity of Affiliates	8,424	8,788	9,172
	GAAP Basis	\$ 1,879,343	\$ 1,804,880	\$ 1,878,594
	December 31, 2016			
	Non-GAAP Basis	\$ 1,910,509	\$ 1,972,785	\$ 2,009,130
	Less: Investments in Debt and Equity of Affiliates	9,999	10,525	11,019

	GAAP Basis	\$	1,900,510	\$	1,962,260	\$	1,998,111
	September 30, 2016						
	Non-GAAP Basis	\$	2,237,849	\$	2,242,396	\$	2,275,368
	Less: Investments in Debt and Equity of Affiliates		11,485		12,147		12,843
	GAAP Basis	\$	2,226,364	\$	2,230,249	\$	2,262,525
	June 30, 2016						
	Non-GAAP Basis	\$	2,263,591	\$	2,305,133	\$	2,368,335
	Less: Investments in Debt and Equity of Affiliates		13,595		14,628		15,535
	GAAP Basis	\$	2,249,996	\$	2,290,505	\$	2,352,800
	March 31, 2016						
	Non-GAAP Basis	\$	2,573,321	\$	2,559,322	\$	2,582,944
	Less: Investments in Debt and Equity of Affiliates		16,405		17,169		17,983
	GAAP Basis	\$	2,556,916	\$	2,542,153	\$	2,564,961
	December 31, 2015						
	Non-GAAP Basis	\$	2,450,495	\$	2,611,418	\$	2,737,441
	Less: Investments in Debt and Equity of Affiliates		18,638		19,119		19,644
	GAAP Basis	\$	2,431,857	\$	2,592,299	\$	2,717,797
	September 30, 2015						
	Non-GAAP Basis	\$	2,585,828	\$	2,509,992	\$	2,585,828
	Less: Investments in Debt and Equity of Affiliates		20,212		20,567		20,877
	GAAP Basis	\$	2,565,616	\$	2,489,425	\$	2,564,951

The balance on our financing arrangements can reasonably be expected to (i) increase as the size of our investment portfolio increases primarily through equity capital raises and as we increase our investment allocation to Agency RMBS and (ii) decrease as the size of our portfolio decreases through asset sales, principal paydowns, and as we increase our investment allocation to credit investments. Credit investments and investments in SFR, due to their risk profile, have lower leverage ratios than Agency RMBS, which restricts our financing counterparties from providing as much financing to us and lowers the balance of our total financing.

Financing arrangements on our investment portfolio

As of September 30, 2018 and December 31, 2017, we have entered into financing arrangements on our investment portfolio with 41 and 39 counterparties, respectively, under which we had outstanding debt with 31 and 27 counterparties, respectively, inclusive of repurchase agreements in affiliated entities. See Note 8 to the “Notes to Consolidated Financial Statements (unaudited)” for a description of our material financing arrangements.

Our financing arrangements generally include customary representations, warranties, and covenants, but may also contain more restrictive supplemental terms and conditions. Although specific to each MRA, typical supplemental terms include requirements of minimum equity, leverage ratios, performance triggers or other financial ratios.

The following table presents a summary of certain financial information related to financing arrangements secured by our Investment Portfolio as of September 30, 2018 (in thousands):

Financing Arrangements Maturing Within: (1)	Agency		Credit		SFR	
	Balance	Weighted Average Funding Cost	Balance	Weighted Average Funding Cost	Balance	Weighted Average Funding Cost
Overnight	\$ 126,397	2.36%	\$ —	—	\$ —	—
30 days or less	1,758,867	2.27%	594,502	3.28%	—	—%
31-60 days	2,762	2.81%	133,427	3.64%	—	—%
61-90 days	—	—%	47,725	3.52%	—	—%
91-180 days	—	—%	44,429	4.65%	—	—%
Greater than 180 days	—	—%	205,434	4.25%	101,987	4.80%
Total: Non-GAAP Basis	\$ 1,888,026	2.28%	\$ 1,025,517	3.59%	101,987	4.80%
Investments in Debt and Equity of Affiliates	\$ —	—	\$ 102,149	4.70%	—	—%
Total: GAAP Basis	\$ 1,888,026	2.28%	\$ 923,368	3.47%	101,987	4.80%

(1) As of September 30, 2018, our weighted average days to maturity is 122 days and our weighted average original days to maturity is 162 days on a Non-GAAP Basis. As of September 30, 2018, our weighted average days to maturity is 117 days and our weighted average original days to maturity is 153 days on a GAAP Basis.

The following table presents a summary of certain financial information related to financing arrangements secured by our Investment Portfolio as of December 31, 2017 (in thousands):

Financing Arrangements Maturing Within: (1)	Agency		Credit	
	Balance	Weighted Average Funding Cost	Balance	Weighted Average Funding Cost
Overnight	\$ 128,779	1.80%	\$ —	—
30 days or less	1,398,411	1.57%	707,993	2.68%
31-60 days	477,943	1.49%	133,820	2.75%
61-90 days	—	—	32,445	3.04%
91-180 days	—	—	1,189	3.22%
Greater than 180 days	—	—	131,011	3.24%
Total: Non-GAAP Basis	\$ 2,005,133	1.56%	\$ 1,006,458	2.77%
Investments in Debt and Equity of Affiliates	\$ —	—	\$ 7,184	3.80%
Total: GAAP Basis	\$ 2,005,133	1.56%	\$ 999,274	2.77%

(1) As of December 31, 2017, our weighted average days to maturity is 43 days and our weighted average original days to maturity is 118 days on a Non-GAAP Basis. As of December 31, 2017, our weighted average days to maturity is 42 days and our weighted average original days to maturity is 117 days on a GAAP Basis.

Repurchase agreements

The following table presents, as of September 30, 2018, certain financial information related to our repurchase agreements secured by our real estate securities (in thousands). It also reconciles these items to GAAP:

Financing Arrangements Maturing Within:	Balance	Weighted Average Rate	Weighted Average Funding Cost	Weighted Average Days to Maturity	Weighted Average Haircut
Overnight	\$ 126,397	2.36%	2.36%	1	3.0%
30 days or less	2,353,370	2.53%	2.53%	12	8.2%
31-60 days	136,189	3.62%	3.62%	48	20.3%
61-90 days	47,725	3.52%	3.52%	74	22.1%
91-180 days	4,346	3.62%	3.62%	121	22.5%
Greater than 180 days	78,301	3.96%	3.99%	307	18.3%
Total: Non-GAAP Basis	\$ 2,746,328	2.63%	2.63%	23	9.1%
Investments in Debt and Equity of Affiliates	\$ 58,568	4.62%	4.66%	175	25.4%
Total: GAAP Basis	\$ 2,687,760	2.59%	2.59%	20	8.8%

The following table presents, as of December 31, 2017, certain financial information related to our repurchase agreements secured by our real estate securities (in thousands). It also reconciles these items to GAAP:

Financing Arrangements Maturing Within:	Balance	Weighted Average Rate	Weighted Average Funding Cost	Weighted Average Days to Maturity	Weighted Average Haircut
Overnight	\$ 128,779	1.80%	1.80%	2	3.2%
30 days or less	2,106,404	1.94%	1.94%	10	9.6%
31-60 days	611,763	1.76%	1.76%	43	7.6%
61-90 days	32,445	3.04%	3.04%	76	25.9%
91-180 days	1,189	3.22%	3.22%	151	22.8%
Greater than 180 days	93,060	3.00%	3.00%	644	20.4%
Total: Non-GAAP Basis	\$ 2,973,640	1.94%	1.94%	37	9.4%
Investments in Debt and Equity of Affiliates	\$ 1,359	3.31%	3.31%	24	6.0%
Total: GAAP Basis	\$ 2,972,281	1.94%	1.94%	37	9.4%

The increase in the balance of our repurchase agreements held in our investments in affiliates from December 31, 2017 to September 30, 2018 is due to financing added on newly purchased Re/Non-Performing Loans we have structured as securities.

Financing facilities

The following table presents information regarding the Company's term loan and revolving facilities as of September 30, 2018 and December 31, 2017 (in thousands). It also reconciles these items to GAAP.

Facility	Maturity Date	September 30, 2018			December 31, 2017		
		Rate	Funding Cost	Balance	Rate	Funding Cost	Balance
Term loan facility, net (1)	October 10, 2023	4.63%	4.80%	\$ 101,987	—%	—%	\$ —
Revolving facility A	July 1, 2019	4.37%	4.37%	\$ 21,796	3.70%	3.70%	\$ 21,796
Revolving facility B	July 15, 2020	4.25%	4.28%	64,827	4.07%	4.07%	10,330
Revolving facility C	August 10, 2023	4.27%	4.48%	37,011	—%	—%	—
Revolving facility D	February 19, 2019	4.76%	4.76%	40,083	—%	—%	—
Revolving facility E	August 25, 2019	4.59%	4.59%	3,499	3.91%	3.91%	5,825
Total revolving facilities				\$ 167,216			\$ 32,126
Total: Non-GAAP Basis				\$ 269,203			\$ 32,126
Investments in Debt and Equity of Affiliates				\$ 43,582			\$ 5,825
Total: GAAP Basis				\$ 225,621			\$ 26,301

(1) The total borrowings under the term loan is \$103 million, which is shown net of deferred financing costs of \$1.0 million.

The increase in the term loan facility balance from December 31, 2017 to September 30, 2018 is due to the financing incurred to acquire our SFR portfolio in September 2018. The increase in our Revolving facility B balance from December 31, 2017 to September 30, 2018 is due primarily to the financing incurred to purchase certain Re/Non-Performing Loans during the year. The increase in our Revolving facility C balance from December 31, 2017 to September 30, 2018 is due primarily to the financing incurred to purchase certain commercial loans during the quarter. The increase in our Revolving facility D balance from December 31, 2017 to September 30, 2018 is due primarily to the financing incurred by Mortgage Acquisition Trust I LLC ("MATT") since December 31, 2017 in order to acquire new origination loans.

Other financing transactions

In 2014, we entered into a securitization transaction, pursuant to which we created a special purpose entity ("SPE") to facilitate the transaction (the "Resecuritization"). We determined that the SPE was a variable interest entity ("VIE") and that the VIE should be consolidated by us under ASC 810-10 and treated as a secured borrowing (the "Consolidated VIE"). See Note 2 to the Notes to Consolidated Financial Statements (unaudited) for more detail on the Consolidated VIE.

The following table details certain information on the Consolidated VIE as of September 30, 2018 (in thousands):

	Current Face	Fair Value	Weighted Average		
			Coupon	Yield	Life (Years) (1)
Consolidated tranche (2)	\$ 11,403	\$ 11,481	3.85%	4.46%	2.46
Retained tranche	8,486	6,548	4.92%	18.65%	8.52
Total resecuritized asset	\$ 19,889	\$ 18,029	4.31%	9.61%	5.04

- (1) Actual maturities of investments and loans are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (2) As of September 30, 2018, the fair market value of the consolidated tranche is included on our consolidated balance sheets as "Non-Agency RMBS." As of September 30, 2018, we have recorded secured financing of \$11.5 million on our consolidated balance sheets in the "Securitized debt, at fair value" line item.

The following table details certain information on the Consolidated VIE as of December 31, 2017 (in thousands):

	Current Face	Fair Value	Weighted Average		
			Coupon	Yield	Life (Years) (1)
Consolidated tranche (2)	\$ 16,355	\$ 16,478	3.11%	3.92%	2.95
Retained tranche	8,618	6,100	4.28%	15.48%	9.04
Total securitized asset	\$ 24,973	\$ 22,578	3.51%	7.04%	5.05

- (1) Actual maturities of investments and loans are generally shorter than stated contractual maturities. Maturities are affected by the contractual lives of the underlying mortgages, periodic payments of principal and prepayments of principal.
- (2) As of December 31, 2017, the fair market value of the consolidated tranche is included on our consolidated balance sheets as “Non-Agency RMBS.” As of December 31, 2017, we have recorded secured financing of \$16.5 million on our consolidated balance sheets in the “Securitized debt, at fair value” line item.

In February 2016, we originated a \$12.0 million commercial loan and, at closing, transferred a 15.0% or \$1.8 million participation interest in the loan (the “Participation Interest”) to an unaffiliated third party. The Participation Interest bore interest at a rate of LIBOR+ 10.00% with a LIBOR floor of 0.25%. We determined that the Participation Interest should be consolidated under ASC 860 due to the fact that the sale of the Participation Interest did not meet the sales criteria established under ASC 860. The commercial loan was paid off in full in February 2017. The principal and interest due on the Participation Interest was paid from these proceeds.

Leverage

We define non-GAAP “at-risk” leverage as the sum of: (i) our GAAP financing arrangements, (ii) financing arrangements held through affiliated entities but exclusive of any financing utilized through AG Arc (iii) the amount payable on purchases that have not yet settled less the financing remaining on sales that have not yet settled, (iv) the consolidated tranche issued by the Consolidated VIE, (v) the Participation Interest and (vi) our net TBA position (at cost). Our calculations of each type of leverage exclude financing arrangements and net receivables/payables on unsettled trades pertaining to U.S. Treasury securities due to the highly liquid and temporary nature of these investments. The calculations in the tables below divide our leverage calculations by our GAAP stockholders’ equity to derive our leverage ratios. The following tables present a reconciliation of our non-GAAP “at-risk” leverage ratio back to GAAP (in thousands).

September 30, 2018	Leverage	Stockholders’ Equity	Leverage Ratio
GAAP Leverage	\$ 2,872,793	\$ 711,872	4.0x
Financing arrangements through affiliated entities	113,692		
Net TBA receivable/(payable) adjustment	75,223		
Non-GAAP “At Risk” Leverage	\$ 3,061,708	\$ 711,872	4.3x

December 31, 2017	Leverage	Stockholders’ Equity	Leverage Ratio
GAAP Leverage	\$ 3,023,293	\$ 714,259	4.2x
Financing arrangements through affiliated entities	7,184		
Net TBA receivable/(payable) adjustment	102,484		
Non-GAAP “At Risk” Leverage	\$ 3,132,961	\$ 714,259	4.4x

Hedging activities

Subject to maintaining our qualification as a REIT and our Investment Company Act exemption, to the extent leverage is deployed, we utilize hedging instruments, including interest rate swaps, swaption agreements, futures, and other financial instruments such as short positions in U.S. Treasury securities, in an effort to hedge the interest rate risk associated with the financing of our portfolio. Specifically, we may seek to hedge our exposure to potential interest rate mismatches between the interest we earn on our investments and our borrowing costs caused by fluctuations in interest rates. In utilizing leverage and interest rate hedges, our objectives are to improve risk-adjusted returns and, where possible, to lock in, on a long-term basis, a spread between the yield on our assets and the costs of our financing and hedging. Refer to the tables below for a summary of our hedging instruments.

Our centrally cleared trades require that we post an “initial margin” to our counterparties of an amount determined by the Chicago Mercantile Exchange (“CME”), the central clearinghouse through which those trades are cleared, which is generally intended to be set at a level sufficient to protect the CME from the maximum estimated single-day price movement in that market participant’s contracts. We also exchange cash “variation margin” with our counterparties on our centrally cleared trades based upon daily changes in the fair value as measured by the CME. Beginning in the first quarter of 2017, as a result of an amendment to the CME’s rule book, which governs their central clearing activities, the daily exchange of variation margin associated with a CME instrument is legally characterized as the daily settlement of the derivative instrument itself, as opposed to a pledge of collateral. Accordingly, beginning in 2017, we account for the daily receipt or payment of variation margin associated with our centrally cleared interest rate swaps and futures as a direct reduction to the carrying value of the interest rate swap and future derivative asset or liability, respectively. Beginning in 2017, the carrying amount of centrally cleared interest rate swaps and futures reflected in our consolidated balance sheets is equal to the unsettled fair value of such instruments. See Note 9 in the Notes to Consolidated Financial Statements for more information.

The following table presents the fair value of our derivative and other instruments and their balance sheet location at September 30, 2018 and December 31, 2017 (in thousands).

Derivatives and Other Instruments	GAAP Designation	Balance Sheet Location	September 30, 2018	December 31, 2017
Interest rate swaps (1)	Non-Hedge	Derivative assets, at fair value	\$ 3,583	\$ 1,428
Interest rate swaps (1)	Non-Hedge	Derivative liabilities, at fair value	(511)	(450)
Swaptions	Non-Hedge	Derivative assets, at fair value	523	362
Short positions on U.S. Treasury Futures (2)	Non-Hedge	Derivative assets, at fair value	—	110
Short positions on U.S. Treasuries	Non-Hedge	Obligation to return securities borrowed under reverse repurchase agreements, at fair value (3)	(5,730)	(24,379)

- (1) As of September 30, 2018, the Company applied a reduction in fair value of \$61.1 million and \$0.4 million to its interest rate swap assets and liabilities, respectively, related to variation margin. As of December 31, 2017, the Company applied a reduction in fair value of \$19.5 million and \$0.6 million to its interest rate swap assets and liabilities, respectively, related to variation margin.
- (2) As of September 30, 2018, the Company applied a reduction in fair value of \$0.6 million to its U.S. Treasury Futures assets related to variation margin. As of December 31, 2017, the Company did not apply a fair value reduction to its U.S. Treasury Futures assets and liabilities.
- (3) The Company’s obligation to return securities borrowed under reverse repurchase agreements relates to securities borrowed to cover short sales of U.S. Treasury securities. The change in fair value of the borrowed securities is recorded in the “Unrealized gain/(loss) on derivatives and other instruments, net” line item on the Company’s consolidated statement of operations.

The following table summarizes the notional amount of certain of our non-hedge derivatives and other instruments (in thousands):

Non-hedge derivatives and other instruments held long/(short):	September 30, 2018	December 31, 2017
Notional amount of Pay Fix/Receive Float Interest Rate Swap Agreements	\$ 2,143,000	\$ 2,227,000
Net notional amount of Swaptions	250,000	270,000
Notional amount of short positions on U.S. Treasury Futures (1)	(50,000)	(52,500)
Notional amount of short positions on U.S. Treasuries	(5,750)	(24,668)

- (1) Each U.S. Treasury Future contract embodies \$100,000 of notional value.

The following table summarizes gains/(losses) related to derivatives and other instruments (in thousands):

Non-hedge derivatives and other instruments gain/(loss):	Statement of Operations Location	Three Months Ended		Nine Months Ended	
		September 30, 2018	September 30, 2017	September 30, 2018	September 30, 2017
Interest rate swaps, at fair value	Unrealized gain/(loss) on derivative and other instruments, net	\$ 5,921	\$ 2,955	\$ 47,783	\$ 6,214
Interest rate swaps, at fair value	Net realized gain/(loss)	7,925	(1,813)	13,787	(9,896)
Eurodollar Futures	Unrealized gain/(loss) on derivative and other instruments, net	—	75	—	75
Eurodollar Futures	Net realized gain/(loss)	—	323	—	323
Swaptions, at fair value	Unrealized gain/(loss) on derivative and other instruments, net	(449)	—	(481)	—
Swaptions, at fair value	Net realized gain/(loss)	—	—	51	—
U.S. Treasury Futures	Unrealized gain/(loss) on derivative and other instruments, net	573	(722)	464	658
U.S. Treasury Futures	Net realized gain/(loss)	(5)	(224)	735	(4,055)
U.S. Treasuries	Unrealized gain/(loss) on derivative and other instruments, net	28	—	(66)	(1,725)
U.S. Treasuries	Net realized gain	—	—	131	1,731

The following table summarizes the weighted average life of our non-hedge derivatives and other instruments:

Weighted Average Life (Years) on non-hedge derivatives and other instruments	September 30, 2018	December 31, 2017
Interest rate swaps	5.41	4.56
Swaptions	0.29	0.59
Short positions on U.S. Treasury Futures	0.22	0.22
Short positions on U.S. Treasuries	2.88	6.86

Interest rate swaps

To help mitigate exposure to increases in interest rates, we use currently-paying and may use forward-starting, one- or three-month LIBOR-indexed, pay-fixed, receive-variable, interest rate swap agreements. This arrangement helps hedge our exposure to higher interest rates because the variable-rate payments received on the swap agreements help to offset additional interest accruing on the related borrowings due to the higher interest rate, leaving the fixed-rate payments to be paid on the swap agreements as our effective borrowing rate, subject to certain adjustments including changes in spreads between variable rates on the swap agreements and actual borrowing rates.

As of September 30, 2018, our interest rate swap positions consisted of pay-fixed interest rate swaps. The following table presents information about our interest rate swaps as of September 30, 2018 (in thousands):

Maturity	Notional Amount	Weighted Average Pay-Fixed Rate	Weighted Average Receive-Variable Rate	Weighted Average Years to Maturity
2019	\$ 50,000	1.29%	2.34%	1.08
2020	250,000	1.63%	2.34%	1.52
2021	27,000	2.86%	2.31%	2.89
2022	653,000	1.90%	2.34%	3.84
2023	219,000	2.97%	2.35%	4.75
2024	230,000	2.06%	2.34%	5.75
2025	125,000	2.87%	2.36%	6.63
2026	75,000	2.12%	2.32%	8.14
2027	264,000	2.35%	2.34%	8.94
2028	250,000	2.97%	2.34%	9.66
Total/Wtd Avg	\$ 2,143,000	2.24%	2.34%	5.41

As of December 31, 2017, our interest rate swap positions consisted of pay-fixed interest rate swaps. The following table presents information about our interest rate swaps as of December 31, 2017 (in thousands):

Maturity	Notional Amount	Weighted Average Pay-Fixed Rate	Weighted Average Receive-Variable Rate	Weighted Average Years to Maturity
2019	\$ 170,000	1.36%	1.43%	1.88
2020	835,000	1.77%	1.52%	2.54
2022	653,000	1.90%	1.51%	4.59
2024	230,000	2.06%	1.47%	6.50
2026	75,000	2.12%	1.44%	8.89
2027	264,000	2.35%	1.50%	9.69
Total/Wtd Avg	\$ 2,227,000	1.89%	1.50%	4.56

Dividends

We intend to continue to make regular quarterly distributions to holders of our common stock if and to the extent authorized by our board of directors. Federal income tax law generally requires that a REIT distribute annually at least 90% of its REIT ordinary taxable income, without regard to the deduction for dividends paid and excluding net capital gains and that it pay tax at regular corporate rates to the extent that it annually distributes less than 100% of its net taxable income. Before we pay any dividend, whether for U.S. federal income tax purposes or otherwise, we must first meet both our operating requirements and debt service on our financing arrangements and other debt payable. If our cash available for distribution is less than our net taxable income, we could be required to sell assets or borrow funds to make cash distributions or we may make a portion of the required distribution in the form of a taxable stock distribution or distribution of debt securities. In addition, prior to the time we have fully deployed the net proceeds of our follow-on offerings to acquire assets in our target asset classes we may fund our quarterly distributions out of such net proceeds.

As mentioned above, our distribution requirements are based on taxable income rather than GAAP net income. The primary differences between taxable income and GAAP net income include (i) unrealized gains and losses associated with investment and derivative portfolios which are marked-to-market in current income for GAAP purposes, but excluded from taxable income until realized or settled, (ii) temporary differences related to amortization of premiums and discounts paid on investments, (iii) the timing and amount of deductions related to stock-based compensation, (iv) temporary differences related to the recognition of realized gains and losses on sold investments and certain terminated derivatives, (v) taxes and (vi) methods of depreciation. Undistributed taxable income is based on current estimates and is not finalized until we file our annual tax return, typically in September of the following year. As of September 30, 2018 the Company had estimated undistributed taxable income of approximately \$1.58 per share.

The following table details our common stock dividends during the nine months ended September 30, 2018 and September 30, 2017:

2018

Declaration Date	Record Date	Payment Date	Dividend Per Share
3/15/2018	3/29/2018	4/30/2018	0.475
6/18/2018	6/29/2018	7/31/2018	0.500
9/14/2018	9/28/2018	10/31/2018	0.500

2017

Declaration Date	Record Date	Payment Date	Dividend Per Share (1)
3/10/2017	3/21/2017	4/28/2017	0.475
6/8/2017	6/19/2017	7/31/2017	0.475
9/11/2017	9/29/2017	10/31/2017	0.575

(1) The combined dividend of \$0.575 includes a dividend of \$0.475 per common share and a special cash dividend of \$0.10 per common share.

The following tables detail our preferred stock dividends during the nine months ended September 30, 2018 and September 30, 2017:

2018

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.25% Series A	2/16/2018	2/28/2018	3/19/2018	0.51563
8.25% Series A	5/15/2018	5/31/2018	6/18/2018	0.51563
8.25% Series A	8/16/2018	8/31/2018	9/17/2018	0.51563

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.00% Series B	2/16/2018	2/28/2018	3/19/2018	0.50
8.00% Series B	5/15/2018	5/31/2018	6/18/2018	0.50
8.00% Series B	8/16/2018	8/31/2018	9/17/2018	0.50

2017

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.25% Series A	2/16/2017	2/28/2017	3/17/2017	0.51563
8.25% Series A	5/15/2017	5/31/2017	6/19/2017	0.51563
8.25% Series A	8/16/2017	8/31/2017	9/18/2017	0.51563

Dividend	Declaration Date	Record Date	Payment Date	Dividend Per Share
8.00% Series B	2/16/2017	2/28/2017	3/17/2017	0.50
8.00% Series B	5/15/2017	5/31/2017	6/19/2017	0.50
8.00% Series B	8/16/2017	8/31/2017	9/18/2017	0.50

Liquidity and capital resources

Our liquidity determines our ability to meet our cash obligations, including commitments to make distributions to our stockholders, pay our expenses, finance our investments and satisfy other general business needs. Our principal sources of cash as of September 30, 2018 consisted of borrowings under financing arrangements, payments of principal and interest we receive on our Agency RMBS and credit portfolio, cash generated from our operating results, and proceeds from capital market transactions. We typically use cash to repay principal and interest on our financing arrangements, to purchase real estate securities, loans and other real estate related assets, to make dividend payments on our capital stock, and to fund our operations. At September 30, 2018, we had \$121.1 million available to support our liquidity needs, comprised of \$30.3 million of cash and \$90.8 million of Agency fixed rate securities and CMOs that have not been pledged as collateral under any of our financing agreements. Refer to the “Contractual obligations” section of this Item 2 for additional obligations that could impact our liquidity.

Leverage

The amount of leverage we may deploy for particular assets depends upon our Manager’s assessment of the credit and other risks of those assets, and also depends on any limitations placed upon us through covenants contained in our financing agreements. We generate income principally from the yields earned on our investments and, to the extent that leverage is deployed, on the difference between the yields earned on our investments and our cost of borrowing and the cost of any hedging activities. Subject to maintaining both our qualification as a REIT for U.S. federal income tax purposes and our Investment Company Act exemption, to the extent leverage is deployed, we may use a number of sources to finance our investments.

As of September 30, 2018, we had financing arrangements with 41 counterparties, allowing us to utilize leverage in our operations. As of September 30, 2018, we had debt outstanding of \$3.0 billion from 31 counterparties, inclusive of financing arrangements through affiliated entities. The borrowings under financing arrangements have maturities between October 1, 2018 and October 10, 2023. These agreements generally include customary representations, warranties, and covenants, but may also contain more restrictive supplemental terms and conditions. Although specific to each lending agreement, typical supplemental terms include requirements of minimum equity, leverage ratios, performance triggers or other financial ratios. If we fail to meet or satisfy any covenants, supplemental terms or representations and warranties, we would be in default under these agreements and our lenders could elect to declare all amounts outstanding under the agreements to be immediately due and payable, enforce their respective interests against collateral pledged under such agreements and restrict our ability to make additional borrowings. Certain financing

agreements may contain cross-default provisions, so that if a default occurs under any one agreement, the lenders under our other agreements could also declare a default.

Under our financing arrangements, we may be required to pledge additional assets to our lenders in the event the estimated fair value of the existing pledged collateral under such agreements declines and such lenders demand additional collateral, which may take the form of additional securities or cash. Certain securities that are pledged as collateral under our financing arrangements are in unrealized loss positions.

The following table presents contractual maturity information for our financing arrangements at September 30, 2018 and December 31, 2017 (in thousands):

	September 30, 2018	December 31, 2017
Overnight	\$ 126,397	\$ 128,779
30 days or less	2,353,370	2,106,404
31-60 days	136,189	611,763
61-90 days	47,725	32,445
91-180 days	44,428	1,189
Greater than 180 days	307,421	131,011
Total: Non-GAAP Basis	\$ 3,015,530	\$ 3,011,591
Less: Investments in Debt and Equity of Affiliates	\$ 102,149	\$ 7,184
Total: GAAP Basis	\$ 2,913,381	\$ 3,004,407

As described above in the “Financing activities” section of this Item 2, we entered into the Resecuritization in 2014 that resulted in the consolidation of the VIE created with the SPE. We recorded the proceeds from the issuance of the secured financing in the “Cash Flows from Financing Activities” section of the consolidated statement of cash flows. See Note 3 to the Notes to Consolidated Financial Statements (unaudited) for more detail.

As described above in the “Financing activities” section of this Item 2, we originated a \$12.0 million commercial loan and transferred the Participation Interest to an unaffiliated third party. We recorded proceeds from the transfer in the “Cash Flows from Financing Activities” section of the consolidated statement of cash flows. The commercial loan was paid off in full in February 2017. The principal and interest due on the loan participation was paid from these proceeds.

The following table presents information at September 30, 2018 with respect to each counterparty that provides us with financing for which we had greater than 5% of our stockholders’ equity at risk with a reconciliation back to GAAP (in thousands).

Counterparty	Stockholders’ Equity at Risk	Weighted Average Maturity (days)	Percentage of Stockholders’ Equity
Credit Suisse Securities, LLC - Non-GAAP	\$ 56,721	131	8 %
Non-GAAP Adjustments	(44,021)	(109)	(6)%
Credit Suisse Securities, LLC - GAAP	\$ 12,700	22	2 %

The following table presents information at December 31, 2017 with respect to each counterparty that provides us with financing for which we had greater than 5% of our stockholders’ equity at risk (in thousands).

Counterparty	Stockholders’ Equity at Risk	Weighted Average Maturity (days)	Percentage of Stockholders’ Equity
RBC (Barbados) Trading Bank Corporation	\$ 45,239	26	6%
Barclays Capital Inc	39,358	13	6%

Margin requirements

The fair value of our real estate securities and loans fluctuate according to market conditions. When the fair value of the assets pledged as collateral to secure a financing arrangement decreases to the point where the difference between the collateral fair value and the financing arrangement amount is less than the haircut, our lenders may issue a “margin call,” which requires us to post additional collateral to the lender in the form of additional assets or cash. Under our repurchase facilities, our lenders have full discretion to determine the fair value of the securities we pledge to them. Our lenders typically value assets based on recent trades in the market. Lenders also issue margin calls as the published current principal balance factors change on the pool of mortgages underlying the securities pledged as collateral when scheduled and unscheduled paydowns are announced monthly. We experience margin calls in the ordinary course of our business. In seeking to manage effectively the margin requirements established by our lenders, we maintain a position of cash and unpledged Agency RMBS. We refer to this position as our “liquidity.” The level of liquidity we have available to meet margin calls is directly affected by our leverage levels, our haircuts and the price changes on our securities. If interest rates increase or if credit spreads widen, then the prices of our collateral (and our unpledged assets that constitute our liquidity) will decline, we will experience margin calls, and we will need to use our liquidity to meet the margin calls. There can be no assurance that we will maintain sufficient levels of liquidity to meet any margin calls. If our haircuts increase, our liquidity will proportionately decrease. In addition, if we increase our borrowings, our liquidity will decrease by the amount of additional haircut on the increased level of indebtedness. We intend to maintain a level of liquidity in relation to our assets that enables us to meet reasonably anticipated margin calls but that also allows us to be substantially invested in securities. We may misjudge the appropriate amount of our liquidity by maintaining excessive liquidity, which would lower our investment returns, or by maintaining insufficient liquidity, which would force us to liquidate assets into potentially unfavorable market conditions and harm our results of operations and financial condition. Further, an unexpected rise in interest rates and a corresponding fall in the fair value of our securities may also force us to liquidate assets under difficult market conditions, thereby harming our results of operations and financial condition, in an effort to maintain sufficient liquidity to meet increased margin calls. Refer to the “Liquidity risk – derivatives” section of Item 3 below for a further discussion on margin.

Similar to the margin calls that we receive on our borrowing agreements, we may also receive margin calls on our derivative instruments when their fair values decline. This typically occurs when prevailing market rates change adversely, with the severity of the change also dependent on the terms of the derivatives involved. Our posting of collateral with our counterparties can be done in cash or securities, and is generally bilateral, which means that if the fair value of our interest rate hedges increases, our counterparty will be required to post collateral with us.

Equity distribution agreement

On May 5, 2017, we entered into an equity distribution agreement with each of Credit Suisse Securities (USA) LLC and JMP Securities LLC (collectively, the “Sales Agents”), which we refer to as the “Equity Distribution Agreements,” pursuant to which we may sell up to \$100.0 million aggregate offering price of shares of our common stock from time to time through the Sales Agents, as defined in Rule 415 under the Securities Act of 1933. The Equity Distribution Agreements were amended on May 2, 2018 in conjunction with the filing of our shelf registration statement registering up to \$750.0 million of its securities, including capital stock (the “2018 Registration Statement”). As of September 30, 2018, we have sold 972,738 shares of common stock under the Equity Distribution Agreements for net proceeds of approximately \$18.1 million.

Forward-looking statements regarding liquidity

Based upon our current portfolio, leverage and available borrowing arrangements, we believe that the net proceeds of our common equity offerings, preferred equity offerings, and private placements, combined with cash flow from operations and our available borrowing capacity will be sufficient to enable us to meet our anticipated liquidity requirements, including funding our investment activities, paying fees under our management agreement, funding our distributions to stockholders and paying general corporate expenses.

Contractual obligations

Management agreement

On June 29, 2011, we entered into an agreement with our Manager pursuant to which our Manager is entitled to receive a management fee and the reimbursement of certain expenses. The management fee is calculated and payable quarterly in arrears in an amount equal to 1.50% of our Stockholders’ Equity, per annum.

For purposes of calculating the management fee, “Stockholders’ Equity” means the sum of the net proceeds from any issuances of equity securities (including preferred securities) since inception (allocated on a pro rata daily basis for such issuances during

the fiscal quarter of any such issuance, and excluding any future equity issuance to the Manager), plus our retained earnings at the end of such quarter (without taking into account any non-cash equity compensation expense or other non-cash items described below incurred in current or prior periods), less any amount that we pay for repurchases of our common stock, excluding any unrealized gains, losses or other non-cash items that have impacted stockholders' equity as reported in our financial statements prepared in accordance with GAAP, regardless of whether such items are included in other comprehensive income or loss, or in net income, and excluding one-time events pursuant to changes in GAAP, and certain other non-cash charges after discussions between the Manager and our independent directors and after approval by a majority of our independent directors. Stockholders' Equity, for purposes of calculating the management fee, could be greater or less than the amount of stockholders' equity shown on our financial statements. For the three and nine months ended September 30, 2018, we incurred management fees of approximately \$2.4 million and \$7.2 million, respectively. For the three and nine months ended September 30, 2017, we incurred management fees of approximately \$2.5 million and \$7.4 million, respectively.

Our Manager uses the proceeds from its management fee in part to pay compensation to its officers and personnel, who, notwithstanding that certain of them also are our officers, receive no compensation directly from us. We are required to reimburse our Manager or its affiliates for operating expenses which are incurred by our Manager or its affiliates on our behalf, including certain salary expenses and other expenses relating to legal, accounting, due diligence and other services. Our reimbursement obligation is not subject to any contractual dollar limitation; however, the reimbursement is subject to an annual budget process which combines guidelines from the Management Agreement with oversight by our board of directors and discussions with our Manager. Of the \$3.5 million and \$10.2 million of Other operating expenses for the three and nine months ended September 30, 2018, respectively, we have accrued \$2.0 million and \$5.5 million, respectively, representing a reimbursement of expenses. Of the \$2.6 million and \$8.2 million of Other operating expenses for the three and nine months ended September 30, 2017, respectively, we have accrued \$1.4 million and \$4.7 million, respectively, representing a reimbursement of expenses.

Share-based compensation

Pursuant to the Manager Equity Incentive Plan and the Equity Incentive Plan, we can award up to 277,500 shares of common stock in the form of restricted stock, stock options, restricted stock units or other types of awards to our directors, officers, advisors, consultants and other personnel and to our Manager. As of September 30, 2018, 48,461 shares of common stock were available to be awarded under the equity incentive plans. Awards under the equity incentive plans are forfeitable until they become vested. An award will become vested only if the vesting conditions set forth in the applicable award agreement (as determined by the compensation committee) are satisfied. The vesting conditions may include performance of services for a specified period, achievement of performance goals, or a combination of both. The compensation committee also has the authority to provide for accelerated vesting of an award upon the occurrence of certain events in its discretion.

As of September 30, 2018, we have granted an aggregate of 68,789 and 40,250 shares of restricted common stock to our independent directors and Manager, respectively, and 120,000 restricted stock units to our Manager under our equity incentive plans. As of September 30, 2018, all the shares of restricted common stock granted to our Manager and independent directors have vested and 79,993 restricted stock units granted to our Manager have vested. The 40,007 restricted stock units that have not vested as of September 30, 2018 were granted to the Manager on July 1, 2017, and represent the right to receive an equivalent number of shares of our common stock if and when the units vest. Annual vesting of approximately 20,000 units will occur on each of July 1, 2019 and July 1, 2020. The units do not entitle the participant the rights of a holder of our common stock, such as dividend and voting rights, until shares are issued in settlement of the vested units. The vesting of such units is subject to the continuation of the management agreement. If the management agreement terminates, all unvested units then held by the Manager or the Manager's transferee shall be immediately cancelled and forfeited without consideration.

Unfunded commitments - commercial loans

On February 28, 2017, we, alongside a private fund under the management of Angelo Gordon, purchased a mezzanine loan and agreed to fund a commitment of \$21.9 million. Our share of the commitment is \$14.6 million of which we had funded \$10.4 million as of September 30, 2018. As of September 30, 2018, our remaining commitment was \$4.2 million.

On June 8, 2018, we, alongside private funds under the management of Angelo Gordon and other third parties, entered into a commitment to close on a commercial loan, subject to the satisfaction of certain conditions. Our share of the commitment is \$20.0 million. As of September 30, 2018, the conditions had not been met, the loan had not closed and we had not funded any of this commitment.

On July 26, 2018, we purchased a commercial loan and agreed to fund a commitment of \$75.0 million. We had funded \$15.4 million as of September 30, 2018. As of September 30, 2018, our remaining commitment was \$59.6 million.

On September 21, 2018, we purchased a commercial loan and agreed to fund a commitment of \$36.0 million. We had funded \$36.0 as of September 30, 2018. As of September 30, 2018, there was no remaining commitment.

Unfunded commitments - Mortgage Acquisition Trust I LLC

On August 29, 2017, we, alongside private funds under the management of Angelo Gordon, formed MATH to conduct a residential mortgage investment strategy. MATH in turn sponsored the formation of MATT to purchase predominantly Non-QMs, which are residential mortgage loans that are not deemed “qualified mortgage,” or “QM,” loans under the rules of the CFPB. Non-QMs are not eligible for delivery to Fannie Mae, Freddie Mac, or Ginnie Mae. MATT is expected to make an election to be treated as a real estate investment trust beginning with the 2018 tax year. In furtherance of this business, MATH’s sponsoring funds have agreed to provide up to \$75.0 million of capital to MATH, of which we agreed to provide \$33.4 million for use in this mortgage investment business (net of any return of capital to us). As of September 30, 2018, we had funded \$14.5 million of our total capital commitment and our outstanding commitment was \$18.9 million (net of any return of capital to us).

Unfunded commitments - variable funding note

On March 29, 2018, the Company, alongside private funds under the management of Angelo Gordon, purchased a variable funding note issued pursuant to an indenture. Our share of the total commitment to the variable funding note is \$7.1 million, of which we have funded \$5.1 million as of September 30, 2018. As of September 30, 2018, our remaining commitment was \$2.0 million.

Other

We have presented a table that details the contractual maturity of our financing arrangements at September 30, 2018 in the “Liquidity and capital resources” section for this Item 2. As of September 30, 2018 and December 31, 2017, we are obligated to pay accrued interest on our financing arrangements in the amount of \$5.4 million and \$5.1 million, respectively, inclusive of accrued interest accounted for through investments in debt and equity of affiliates, and exclusive of accrued interest on any financing utilized through AG Arc. The change in accrued interest on our financing arrangements resulted primarily from the increase in one month LIBOR from 1.564 at December 31, 2017 to 2.261 at September 30, 2018. As most of our financing arrangements have maturities of one month or less, the change in one-month LIBOR contributed to the increase in our accrued interest.

Off-balance sheet arrangements

We have entered into TBA positions to facilitate the future purchase or sale of Agency RMBS. We record TBA purchases and sales on the trade date and present the purchase or receipt net of the corresponding payable or receivable until the settlement date of the transaction. As of September 30, 2018, we had a net long TBA position with a net payable amount of \$75.5 million and fair market value of \$75.7 million. We recorded \$0.8 million and \$0.5 million, in the “Derivative assets, at fair value” and “Derivative liabilities, at fair value” line items, respectively, on our consolidated balance sheets.

Our investments in debt and equity of affiliates are primarily comprised of real estate securities, Excess MSRs, loans, and our interest in AG Arc. Investments in debt and equity of affiliates are accounted for using the equity method of accounting. As of September 30, 2018, our real estate securities and loans, excess MSRs and interest in AG Arc had a fair market value of \$187.9 million, net of any non-recourse securitized debt. As of September 30, 2018, these investments, inclusive of associated financing arrangements and interest receivable/payable had a fair market value of \$79.7 million which is included in the “Investments in debt and equity of affiliates” line item on our consolidated balance sheets.

We have committed to fund a \$14.6 million mezzanine loan. As of September 30, 2018 we have funded \$10.4 million, and our remaining commitment was \$4.2 million.

We have committed to invest up to \$33.4 million in MATT through our ownership of MATH. As of September 30, 2018, we had funded \$14.5 million of our total capital commitment and our outstanding commitment was \$18.9 million (net of any return of capital to us).

We have committed to invest up to \$7.1 million in the variable funding note. As of September 30, 2018, we had funded \$5.1 million of our total commitment and our outstanding commitment was \$2.0 million.

We have entered into a commitment to close on a \$20.0 million commercial loan, subject to the satisfaction of certain conditions. As of September 30, 2018, the conditions had not been met, the loan had not closed and we had not funded any of this commitment.

We have committed to invest up to \$75.0 million in a commercial loan. As of September 30, 2018, we have funded \$15.4 million of our total capital commitment and our outstanding commitment was \$59.6 million.

We have committed to invest up to \$36.0 million in a commercial loan. As of September 30, 2018, we have funded \$36.0 million of our total capital commitment and have no outstanding commitment.

Management views our TBA position and our investments in debt and equity of affiliates as part of our investment portfolio. Exclusive of our TBAs and our investments in debt and equity of affiliates described above, we do not expect these off-balance sheet arrangements, taken as a whole, to be significant to, or have a material impact on, our overall liquidity or capital resources or our operations, given our ability to finance such arrangements.

Certain related person transactions

Our board of directors has adopted a policy regarding the approval of any “related person transaction,” which is any transaction or series of transactions in which (i) we or any of our subsidiaries is or are to be a participant, (ii) the amount involved exceeds \$120,000, and (iii) a “related person” (as defined under SEC rules) has a direct or indirect material interest. Under the policy, a related person would need to promptly disclose to our Secretary or Assistant Secretary any related person transaction and all material facts about the transaction. Our Secretary or Assistant Secretary, in consultation with outside counsel, to the extent appropriate, would then assess and promptly communicate that information to the audit committee of our board of directors. Based on its consideration of all of the relevant facts and circumstances, the audit committee will review, approve or ratify such transactions as appropriate. The audit committee will not approve or ratify a related person transaction unless it shall have determined that such transaction is in, or is not inconsistent with, our best interests and does not create a conflict of interest. If we become aware of an existing related person transaction that has not been approved under this policy, the transaction will be referred to the audit committee which will evaluate all options available, including ratification, revision or termination of such transaction. Our policy requires any director who may be interested in a related person transaction to recuse himself or herself from any consideration of such related person transaction.

Grants of restricted common stock

As of September 30, 2018, we have granted an aggregate of 68,789 and 40,250 shares of restricted common stock to our independent directors and Manager, respectively, and 120,000 shares of restricted stock units to our Manager under our equity incentive plans. As of September 30, 2018, all the shares of restricted common stock granted to our Manager and independent directors have vested and 79,993 restricted stock units granted to our Manager have vested.

Red Creek

In connection with our investments in residential loans and Securitized Whole Loans, we may engage asset managers to provide advisory, consultation, asset management and other services to help our third-party servicers formulate and implement strategic plans to manage, collect and dispose of loans in a manner that is reasonably expected to maximize the amount of proceeds from each loan. Beginning in November 2015, we engaged Red Creek Asset Management LLC (“Asset Manager”), an affiliate of the Manager and a direct subsidiary of Angelo Gordon, as the asset manager for certain of our residential loans and Securitized Whole Loans. The Asset Manager acknowledges that we will at all times have and retain ownership of all loans and that the Asset Manager will not acquire (i) title to any loan, (ii) any security interest in any loan, or (iii) any other rights or interests of any kind or any nature whatsoever in or to any loan. We pay separate arm’s-length asset management fees, as assessed and confirmed periodically by a third-party valuation firm, for (i) non-performing loans and (ii) re-performing loans. For the three and nine months ended September 30, 2018, the fees paid by us to the Asset Manager totaled \$123,050 and \$244,481, respectively. For the three and nine months ended September 30, 2017, the fees paid by us to the Asset Manager totaled \$41,732 and \$137,022, respectively.

Arc Home

On December 9, 2015, we, alongside private funds under the management of Angelo Gordon, through AG Arc, formed Arc Home, a Delaware limited liability company. Arc Home, through its subsidiary, originates conforming, Government, Jumbo and other non-conforming residential mortgage loans, retains the mortgage servicing rights associated with the loans it originates, and purchases additional mortgage servicing rights from third-party sellers. Our investment in Arc Home, which is conducted through AG Arc, one of our indirect subsidiaries, is reflected on the “Investments in debt and equity of affiliates” line item on our consolidated balance sheets and had a fair value of \$23.1 million and \$17.9 million on September 30, 2018 and December 31, 2017, respectively

Arc Home may sell loans to us or to affiliates of our Manager. Arc Home may also enter into agreements with us, third parties, or affiliates of our Manager to sell Excess MSR on the mortgage loans that it either purchases from third parties or originates. We

have entered into agreements with Arc Home to purchase rights to receive the excess servicing spread related to certain of its MSR's and as of September 30, 2018, these Excess MSR's had fair value of approximately \$29.3 million.

In connection with our investments in Excess MSR's purchased through Arc Home, we pay an administrative fee to Arc Home. For the three and nine months ended September 30, 2018 the administrative fees paid by us to Arc Home totaled \$87,264 and \$164,946, respectively. For the three and nine months ended September 30, 2017 the administrative fees paid by us to Arc Home totaled \$2,921 and \$6,364, respectively.

Mortgage Acquisition Trust I LLC

On August 29, 2017, we, alongside private funds under the management of Angelo Gordon entered into the MATH LLC Agreement, which requires that MATH fund a capital commitment of \$75.0 million to MATT. Our share of MATH's total capital commitment to MATT is \$33.4 million, of which we had funded \$14.5 million as of September 30, 2018. As of September 30, 2018, our remaining commitment was \$18.9 million (net of any return of capital to us).

Management agreement

On June 29, 2011 we entered into a management agreement with our Manager, which governs the relationship between us and our Manager and describes the services to be provided by our Manager and its compensation for those services. The terms of our management agreement, including the fees payable by us to Angelo Gordon, were not negotiated at arm's length, and its terms may not be as favorable to us as if they had been negotiated with an unaffiliated party. Our Manager, pursuant to the delegation agreement dated as of June 29, 2011, has delegated to Angelo Gordon the overall responsibility of its day-to-day duties and obligations arising under our management agreement. For further detail on the Management Agreement, see the "Contractual obligations—Management agreement" section of this Item 2.

Other transactions with affiliates

Our board of directors has adopted a policy regarding the approval of any "affiliated transaction," which is any transaction or series of transactions in which Angelo Gordon arranges for the purchase and sale of a security or other investment between or among us, on the one hand, and an entity or entities under Angelo Gordon's management, on the other hand (an "Affiliated Transaction"). In order for the Company to enter into an Affiliated Transaction, the Affiliated Transaction must be approved by the Chief Risk Officer of the Company and the Chief Compliance Officer of Angelo Gordon. The price at which the security or investment is traded is the market price or market bid for such security or investment. Independent third-party valuations are used when market prices or bids are not available or prove to be impracticable to acquire. Our Affiliated Transactions are reviewed by our Audit Committee on a quarterly basis to confirm compliance with the policy.

In June 2016, in accordance with our Affiliated Transactions Policy, we executed two trades whereby we acquired real estate securities from two separate affiliates of the Manager (the "June Selling Affiliates"). As of the date of the trades, the securities acquired from the June Selling Affiliates had a total fair value of \$6.9 million. In each case, the June Selling Affiliates sold the real estate securities through a BWIC (Bids Wanted in Competition). Prior to the submission of the BWIC by the June Selling Affiliates, we submitted our bid for the real estate securities to the June Selling Affiliates. The pre-submission of our bid allowed us to confirm third-party market pricing and best execution.

In February 2017, in accordance with our Affiliated Transactions Policy, we executed one trade whereby we acquired a real estate security from an affiliate of the Manager (the "February Selling Affiliate"). As of the date of the trade, the security acquired from the February Selling Affiliate had a total fair value of \$2.0 million. The February Selling Affiliate sold the real estate security through a BWIC. Prior to the submission of the BWIC by the February Selling Affiliate, we submitted our bid for the real estate security to the February Selling Affiliate. The pre-submission of our bid allowed us to confirm third-party market pricing and best execution.

In July 2017, in accordance with our Affiliated Transactions Policy, we acquired certain real estate securities from an affiliate of the Manager (the "July Selling Affiliate"). As of the date of the trade, the securities acquired from the July Selling Affiliate had a total fair value of \$0.2 million. As procuring market bids for the real estate securities was determined to be impracticable in the Manager's reasonable judgment, appropriate pricing was based on a valuation prepared by an independent third-party pricing vendor. The third-party pricing vendor allowed us to confirm third-party market pricing and best execution.

In October 2017, in accordance with our Affiliated Transactions Policy, we acquired certain real estate securities and loans from two separate affiliates of the Manager (the "October Selling Affiliates"). As of the date of the trade, the securities and loans acquired from the October Selling Affiliates had a total fair value of \$8.4 million. As procuring market bids for the real estate securities

and loans was determined to be impracticable in the Manager's reasonable judgment, appropriate pricing was based on a valuation prepared by independent third-party pricing vendors. The third-party pricing vendors allowed us to confirm third-party market pricing and best execution.

Critical accounting policies

Our consolidated financial statements are prepared in accordance with GAAP, which requires the use of estimates that involve the exercise of judgment and the use of assumptions as to future uncertainties. Our most critical accounting policies involve decisions and assessments that could affect our reported assets and liabilities, as well as our reported revenues and expenses. We believe that all of the decisions and assessments upon which our consolidated financial statements are based are reasonable at the time made and based upon information available to us at that time. We rely upon independent pricing of our assets at each quarter end to arrive at what we believe to be reasonable estimates of fair market value, whenever available. For more information on our fair value measurements, see Note 7 to the "Notes to Consolidated Financial Statements (unaudited)." For a review of our significant accounting policies and the recent accounting pronouncements that may impact our results of operations, see Note 2 to the "Notes to Consolidated Financial Statements (unaudited)."

Accounting for single-family rental properties

Purchases of single-family rental properties are treated as asset acquisitions under ASU 2017-01, "Clarifying the Definition of a Business" and are recorded at their purchase price, which is allocated between land, building and improvements, and in-place lease intangibles (when a tenant is in place at the acquisition date) based upon their relative fair values at the date of acquisition. Fair value is determined in accordance with ASC 820 and is primarily based on unobservable data inputs. In making estimates of fair values for purposes of allocating the purchase price, we utilize our own market knowledge and published market data and generally engage a third-party valuation specialist to assist us in the determination of fair value for purposes of allocating price of properties acquired as part of portfolio level transactions. For purposes of this allocation, the purchase price is inclusive of acquisition costs, which include legal costs, as well as other closing costs.

We incur costs to acquire, stabilize and prepare our single-family rental properties to be rented. These costs include renovation and other costs associated with these activities. We capitalize these costs as a component of our investment in each single-family rental property, using specific identification and relative allocation methodologies. The capitalization period associated with our stabilization activities begins at such time that activities commence and concludes at the time that a single-family rental property is available to be leased. Once a property is ready for its intended use, expenditures for ordinary maintenance and repairs are expensed to operations as incurred. We capitalize expenditures that improve or extend the life of a home and for certain furniture and fixtures additions.

The Company records single-family rental properties at purchase price less accumulated depreciation. Costs capitalized in connection with property acquisitions and improvements are depreciated over their estimated useful lives on a straight line basis. For costs capitalized in connection with property acquisitions and improvements, the weighted average useful lives range from 5 years to 30 years. In-place lease intangibles are recorded based on the costs to execute similar leases as well as an estimate of lost rent revenue at in-place rental rates during the estimated time required to lease the property. The in-place lease intangibles are amortized over the remaining life of the leases and are recorded in "Single-family rental properties, net" on the Company's consolidated balance sheets. The weighted average remaining life of the leases is 7.4 months.

We assess impairment in our single-family rental properties at least on a quarterly basis, or whenever events or changes in business circumstances indicate that carrying amounts of the assets may not be fully recoverable. When such trigger events occur, we determine whether there has been impairment by comparing the asset's carrying value with its estimated fair value. Should impairment exist, the asset is written down to its estimated fair value. This analysis is performed at the property level using estimated cash flows, which are estimated based on a number of assumptions that are subject to economic and market uncertainties, including, among others, demand for rental properties, competition for customers, changes in market rental rates, costs to operate each property, expected ownership periods and value of the property. If the carrying amount of a property exceeds the sum of its undiscounted future operating and disposition cash flows, an impairment loss is recorded for excess of the carrying amount over the estimated fair value.

Minimum contractual rents from leases are recognized on a straight-line basis over the terms of the leases in rental income. Therefore, actual amounts billed in accordance with the lease during any given period may be higher or lower than the amount of rental income recognized during the period. Straight-line rental income commences when the customer takes control of the leased premises.

Deal related performance fees

The Company accrues deal related performance fees, payable to Arc Home and third party operators, on certain of its CMBS, Excess MSR's and its single-family rental properties. The deal related performance fees are based on these investments meeting certain performance hurdles. The fees are accrued and expensed during the period for which they are calculated and earned.

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 far more than inflation. Changes in interest rates do not necessarily correlate with inflation rates or changes in inflation rates.

Other matters

We intend to conduct our business so as to maintain our exempt status under, and not to become regulated as an investment company for purposes of the Investment Company Act. If we failed to maintain our exempt status under the Investment Company Act and became regulated as an investment company, our ability to, among other things, use leverage would be substantially reduced and, as a result, we would be unable to conduct our business as described in this report. Accordingly, we monitor our compliance with both the 55% Test and the 80% Test of the Investment Company Act in order to maintain our exempt status. As of December 31, 2017, we determined that we maintained compliance with both the 55% Test and the 80% Test requirements.

We calculate that at least 75% of our assets were real estate assets, cash and cash items and government securities for the year ended December 31, 2017. We also calculate that our revenue qualifies for the 75% gross income test and for the 95% gross income test rules for the year ended December 31, 2017. Overall, we believe that we met the REIT income and asset tests. We also believe that we met all other REIT requirements, including the ownership of our common stock and the distribution of our net income. Therefore, for the year ended December 31, 2017, we believe that we qualified as a REIT under the Code.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

The primary components of our market risk relate to interest rates, liquidity, prepayment rates and credit risk. While we do not seek to avoid risk completely, we seek to assume risk that can be quantified from historical experience and to actively manage that risk, to earn sufficient returns to justify taking those risks and to maintain capital levels consistent with the risks we undertake.

Interest rate risk

Interest rate risk is highly sensitive to many factors, including governmental monetary, fiscal and tax policies, domestic and international economic and political considerations and other factors beyond our control. We are subject to interest rate risk in connection with both our investments and the financing under our financing arrangements. We generally seek to manage this risk by monitoring the reset index and the interest rate related to our target assets and our financings; by structuring our financing agreements to have a range of maturity terms, amortizations and interest rate adjustment periods; and by using hedging instruments to adjust interest rate sensitivity of our target assets and borrowings.

Interest rate effects on net interest income

Our operating results depend in large part upon differences between the yields earned on our investments and our cost of borrowing and upon the effectiveness of our interest rate hedging activities. The majority of our financing arrangements are short term in nature with an initial term of between 30 and 90 days. The financing rate on these agreements will generally be determined at the outset of each transaction by reference to prevailing rates plus a spread. As a result, our borrowing costs will tend to increase during periods of rising interest rates as we renew, or “roll”, maturing transactions at the higher prevailing rates. When combined with the fact that the income we earn on our fixed interest rate investments will remain substantially unchanged, this will result in a narrowing of the net interest spread between the related assets and borrowings and may even result in losses. We have obtained term financing on certain borrowing arrangements. The financing on term facilities generally are fixed at the outset of each transaction by reference to a pre-determined interest rate plus a spread.

In an attempt to offset the increase in funding costs related to rising interest rates, our Manager enters into hedging transactions structured to provide us with positive cash flow in the event interest rates rise. Our Manager accomplishes this through the use of interest rate derivatives. Some hedging strategies involving the use of derivatives are highly complex, may produce volatile returns and may expose us to increased risks relating to counterparty defaults.

Interest rate effects on fair value

Another component of interest rate risk is the effect that changes in interest rates will have on the market value of the assets that we acquire.

Generally, in a rising interest rate environment, the fair value of our real estate securities and loan portfolios would be expected to decrease, all other factors being held constant. In particular, the portion of our real estate securities and loan portfolios with fixed-rate coupons would be expected to decrease in value more severely than that portion with a floating-rate coupon. This is because fixed-rate coupon assets tend to have significantly more duration or price sensitivity to changes in interest rates, than floating-rate coupon assets. Fixed-rate assets currently comprise a majority of our portfolio.

The fair value of our investment portfolio could change at a different rate than the fair value of our liabilities when interest rates change. We measure the sensitivity of our portfolio to changes in interest rates by estimating the duration of our assets and liabilities. Duration is the approximate percentage change in fair value for a 100 basis point parallel shift in the yield curve. In general, our assets have higher duration than our liabilities. In order to reduce this exposure we use hedging instruments to reduce the gap in duration between our assets and liabilities.

We calculate estimated effective duration (i.e., the price sensitivity to changes in risk-free interest rates) to measure the impact of changes in interest rates on portfolio value. We estimate duration based on third-party models. Different models and methodologies can produce different effective duration estimates for the same securities. We allocate the net duration by asset type based on the interest rate sensitivity.

The following chart details information about our duration gap as of September 30, 2018:

Duration (1)(2)	Years
Agency RMBS	3.11
Hedges	(3.03)
Agency RMBS Gap Subtotal	0.08
Credit Investments	1.04
Duration Gap	1.12

(1) Duration related to financing arrangements is netted within its respective Agency RMBS and Credit Investments line items

(2) The calculation of duration does not include our SFR portfolio.

The following table quantifies the estimated changes in net interest income, GAAP equity, and the market value of our assets should interest rates go up or down by 25, 50 and 75 basis points, assuming (i) the yield curves of the rate shocks will be parallel to each other and the current yield curve and (ii) all other market risk factors remain constant. These estimates were compiled using a combination of third-party services and models, market data and internal models. All changes in income and equity are measured as percentage changes from the projected net interest income and GAAP equity from our base interest rate scenario. The base interest rate scenario assumes spot and forward interest rates, which existed as of September 30, 2018. Actual results could differ materially from these estimates.

Agency RMBS assumptions attempt to predict default and prepayment activity at projected interest rate levels. To the extent that these estimates or other assumptions do not hold true, actual results will likely differ materially from projections and could be larger or smaller than the estimates in the table below. Moreover, if different models were employed in the analysis, materially different projections could result. In addition, while the table below reflects the estimated impact of interest rate increases and decreases on a static portfolio as of September 30, 2018, our Manager may from time to time sell any of our investments as a part of the overall management of our investment portfolio.

Change in Interest Rates (basis points) (1)(2)	Change in Market Value as a Percentage of GAAP Equity	Change in Market Value as a Percentage of Assets	Percentage Change in Projected Net Interest Income (3)
75	(4.6)%	(0.8)%	(3.2)%
50	(2.9)%	(0.5)%	(2.1)%
25	(1.4)%	(0.3)%	(1.1)%
(25)	1.3 %	0.2 %	1.0 %
(50)	2.1 %	0.4 %	2.0 %
(75)	2.4 %	0.4 %	2.9 %

(1) Includes investments held through affiliated entities that are reported as “Investments in debt and equity of affiliates” on our consolidated balance sheet, but excludes AG Arc.

(2) Does not include cash investments, which typically have overnight maturities and are not expected to change in value as interest rates change.

(3) Interest income includes trades settled as of September 30, 2018.

The information set forth in the interest rate sensitivity table above and all related disclosures constitute forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. Actual results could differ significantly from those estimated in the foregoing interest rate sensitivity table.

Liquidity risk

Our primary liquidity risk arises from financing long-maturity assets with shorter-term borrowing primarily in the form of financing arrangements.

Liquidity risk – financing arrangements

We pledge real estate securities or mortgage loans and cash as collateral to secure our repurchase transactions. Should the fair value of our real estate securities or mortgage loans pledged as collateral decrease (as a result of rising interest rates, changes in prepayment speeds, widening of credit spreads or otherwise), we will likely be subject to margin calls for additional collateral from our financing counterparties. Should the fair value of our real estate securities or mortgage loans decrease materially and suddenly, margin calls will likely increase causing an adverse change to our liquidity position which could result in substantial losses. In addition, we cannot be assured that we will always be able to roll our repurchase transactions at their scheduled maturities which could cause material additional harm to our liquidity position and result in substantial losses. Further, should funding conditions tighten as they did in 2007 and 2009, our financing arrangement counterparties may increase our margin requirements on new financings, including repurchase transactions that we roll at maturity with the same counterparty, which would require us to post additional collateral and would reduce our ability to use leverage and could potentially cause us to incur substantial losses.

Liquidity risk - derivatives

The terms of our interest rate swaps and futures require us to post collateral in the form of cash or Agency RMBS to our counterparties to satisfy two types of margin requirements: variation margin and initial margin.

We and our swap and futures counterparties are both required to post variation margin to each other depending upon the daily moves in prevailing benchmark interest rates. The amount of this variation margin is derived from the mark to market valuation of our swaps or futures. Hence, as our swaps or futures lose value in a falling interest rate environment, we are required to post additional variation margin to our counterparties on a daily basis; conversely, as our swaps or futures gain value in a rising interest rate environment, we are able to recall variation margin from our counterparties. By recalling variation margin from our swap or futures counterparties, we are able to partially mitigate the liquidity risk created by margin calls on our repurchase transactions during periods of rising interest rates.

Initial margin works differently. Collateral posted to meet initial margin requirements is intended to create a safety buffer to benefit our counterparties if we were to default on our payment obligations under the terms of the swap or futures and our counterparties were forced to unwind the swap or futures. For trades executed on a bilateral basis, the initial margin is set at the outset of each trade as a fixed percentage of the notional amount of the trade. This means that once we post initial margin at the outset of a bilateral trade, we will have no further posting obligations as it pertains to initial margin. However, the initial margin on our centrally cleared trades varies from day to day depending upon various factors, including the absolute level of interest rates and the implied volatility of interest rates. There is a distinctly positive correlation between initial margin, on the one hand, and the absolute level of interest rates and implied volatility of interest rates, on the other hand. As a result, in times of rising interest rates or increasing rate volatility, we anticipate that the initial margin required on our centrally-cleared trades will likewise increase, potentially by a substantial amount. These margin increases will have a negative impact on our liquidity position and will likely impair the intended liquidity risk mitigation effect of our swaps and futures discussed above.

Our TBA dollar roll contracts are also subject to margin requirements governed by the Mortgage-Backed Securities Division (“MBSD”) of the Fixed Income Clearing Corporation and by our prime brokerage agreements, which may establish margin levels in excess of the MBSD. Such provisions require that we establish an initial margin based on the notional value of the TBA contract, which is subject to increase if the estimated fair value of our TBA contract or the estimated fair value of our pledged collateral declines. The MBSD has the sole discretion to determine the value of our TBA contracts and of the pledged collateral securing such contracts. In the event of a margin call, we must generally provide additional collateral, either securities or cash, on the same business day.

Our Manager seeks to mitigate our liquidity risks by maintaining a prudent level of leverage, monitoring our liquidity position on a daily basis and maintaining a substantial cushion of cash and unpledged real estate securities and loans in our portfolio in order to meet future margin calls. In addition, our Manager seeks to further mitigate our liquidity risk by (i) diversifying our exposure across a broad number of financing counterparties, (ii) limiting our exposure to any single financing counterparty and (iii) monitoring the ongoing financial stability of our financing counterparties.

Prepayment risk

Premiums arise when we acquire real estate assets at a price in excess of the principal balance of the mortgages securing such assets (i.e., par value). Conversely, discounts arise when we acquire assets at a price below the principal balance of the mortgages securing such assets. Premiums paid on our assets are amortized against interest income and accretible purchase discounts on our assets are accreted to interest income. Purchase premiums on our assets, which are primarily carried on our Agency RMBS, are amortized against interest income over the life of each respective asset using the effective yield method, adjusted for actual prepayment activity. An increase in the prepayment rate, as measured by the CPR, will typically accelerate the amortization of purchase premiums, thereby reducing the yield or interest income earned on such assets. Generally, if prepayments on our Non-

Agency RMBS or mortgage loans are less than anticipated, we expect that the income recognized on such assets would be reduced due to the slower accretion of purchase discounts, and impairments could result.

As further discussed in Note 2 of the “Notes to Consolidated Financial Statements (unaudited),” differences between previously estimated cash flows and current actual and anticipated cash flows caused by changes to prepayment or other assumptions are adjusted retrospectively through a “catch up” adjustment for the impact of the cumulative change in the effective yield through the reporting date for securities accounted for under ASC 320-10 (generally, Agency RMBS) or adjusted prospectively through an adjustment of the yield over the remaining life of the investment for investments accounted for under ASC 325-40 (generally, Non-Agency RMBS, ABS, CMBS, Excess MSR and interest-only securities) and mortgage loans accounted for under ASC 310-30.

In addition, our interest rate hedges are structured in part based upon assumed levels of future prepayments within our real estate securities or mortgage loan portfolio. If prepayments are slower or faster than assumed, the life of the real estate securities or mortgage loans will be longer or shorter than assumed, respectively, which could reduce the effectiveness of our Manager’s hedging strategies and may cause losses on such transactions.

Our Manager seeks to mitigate our prepayment risk by investing in real estate assets with a variety of prepayment characteristics as well as by attempting to maintain in our portfolio a mix of assets purchased at a premium with assets purchased at a discount.

Real estate value risk

Residential and commercial property values are subject to volatility and may be affected adversely by a number of factors outside of our control, including, but not limited to, national, regional and local economic conditions (which may be adversely affected by industry slowdowns and other factors); local real estate conditions (such as an oversupply of housing or commercial real estate); construction quality, age and design; demographic factors; and retroactive changes to building or similar codes. Decreases in property values reduce the value of the collateral underlying our RMBS and CMBS portfolios as well as the potential sale proceeds available to repay our loans in the event of a default. In addition, substantial decreases in property values can increase the rate of strategic defaults by residential mortgage borrowers which can impact and create significant uncertainty in the recovery of principal and interest on our investments.

Credit risk

Although we expect to encounter only de minimis credit risk in our Agency RMBS portfolio, we are exposed to the risk of potential credit losses from an unanticipated increase in borrower defaults as well as general credit spread widening on any Non-Agency assets in our portfolio, including residential and commercial mortgage loans as well as Non-Agency RMBS, ABS and CMBS. We seek to manage this risk through our Manager’s pre-acquisition due diligence process and, if available, through the use of non-recourse financing, which limits our exposure to credit losses to the specific pool of collateral which is the subject of the non-recourse financing. Our Manager’s pre-acquisition due diligence process includes the evaluation of, among other things, relative valuation, supply and demand trends, the shape of various yield curves, prepayment rates, delinquency and default rates, recovery of various sectors and vintage of collateral.

Basis risk

Basis risk refers to the possible decline in our book value triggered by the risk of incurring losses on the fair value of our Agency RMBS as a result of widening market spreads between the yields on our Agency RMBS and the yields on comparable duration Treasury securities. The basis risk associated with fluctuations in fair value of our Agency RMBS may relate to factors impacting the mortgage and fixed income markets other than changes in benchmark interest rates, such as actual or anticipated monetary policy actions by the Federal Reserve, market liquidity, or changes in required rates of return on different assets. Consequently, while we use interest rate swaps and other hedges to protect against moves in interest rates, such instruments will generally not protect our net book value against basis risk.

Real Estate Risk

Residential property values 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 (which may be adversely affected by high rates of unemployment, high interest rates, lack of available financing, industry slowdowns and other factors); local real estate conditions (such as an oversupply of housing); construction quality, age and design; demographic factors; and retroactive changes to building or similar codes. Decreases in property values could cause us to suffer losses.

Seasonality

Our SFR portfolio and related operating results may be impacted by seasonal factors throughout the year. In particular, we may experience higher levels of resident move-outs during the summer months, which may impact both our rental revenues and related turnover costs. Further, our property operating costs can be seasonally impacted in certain markets by increases in expenses such as HVAC repairs, costs to re-resident, and landscaping expenses during the summer season.

ITEM 4. CONTROLS AND PROCEDURES.

Evaluation of Disclosure Controls and Procedures

Our management is responsible for establishing and maintaining disclosure controls and procedures that are designed to ensure that information the Company is required to disclose in the reports that it files or submits under the Securities Exchange Act of 1934, as amended (the "Exchange Act") is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include controls and procedures designed to ensure that the Company's management, including its principal executive officer and principal financial officer, as appropriate, allow for timely decisions regarding required disclosure.

We have evaluated, with the participation of our principal executive officer and principal financial officer, the effectiveness of our disclosure controls and procedures as of September 30, 2018. There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their control objectives. Based upon our evaluation, which excludes the impact of the acquisition of the SFR portfolio described below, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the applicable rules and forms, and that it is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow for timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

No change occurred in our internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) of the Exchange Act) during the period covered by this quarterly report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting, except as set forth below.

On September 10, 2018, we completed the acquisition of a portfolio of Single-Family Rental Properties ("SFR"). We currently exclude, and are in the process of working to incorporate, the SFR portfolio in our evaluation of internal controls over financial reporting and the related evaluation of the effectiveness of our disclosure controls and procedures, pursuant to SEC guidance that a recently acquired business may be omitted from the scope of such assessment for up to one year from the date of acquisition. For the three and nine months ended September 30, 2018, SFR revenues represented approximately 4.0% and 2.7% of Net Income/(Loss) Available to Common Stockholders, respectively. At September 30, 2018, SFR represented 3.6% of our total assets.

PART II — OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS.

We are at times subject to various legal proceedings arising in the ordinary course of business. In addition, in the ordinary course of business, we can be and are involved in governmental and regulatory examinations, information gathering requests, investigations and proceedings. As of the date of this report, we are not party to any litigation or legal proceedings, or to our knowledge, any threatened litigation or legal proceedings, which we believe, individually or in the aggregate, would have a material adverse effect on our results of operations or financial condition.

ITEM 1A. RISK FACTORS.

Refer to the risks identified under the caption “Risk Factors”, in our Annual Report on Form 10-K for the year ended December 31, 2017 and our subsequent filings, which are available on the Securities and Exchange Commission’s website at www.sec.gov, and in the “Forward-Looking Statements” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” sections herein.

We are employing a business model with a limited track record, which may make our business difficult to evaluate.

Until 2012, the single-family rental business consisted primarily of private and individual investors in local markets and was managed individually or by small, local property managers. Our investment strategy involves purchasing, renovating, maintaining and managing a portfolio of residential properties and leasing them to suitable tenants. Large, well-capitalized investors have only recently entered this business and, as a result, there are not peer companies with an established long-term track record to assist us in predicting whether our investment strategy can be implemented and sustained successfully over time. It will be difficult for you to evaluate our potential future performance without the benefit of established long-term track records from companies implementing a similar business model. We may encounter unanticipated problems implementing our investment strategy, which may adversely affect our results of operations and ability to make distributions to our shareholders and cause our share price to decline significantly. We believe the acquisition, operation and management of multi-family residential real estate is the most comparable established model for our business, but in contrast to multi-family operations, the geographic dispersion of single-family properties (even within a local clustering) creates significantly greater operational and maintenance challenges and, potentially, significantly higher per-unit operating costs. In addition, since each home has unique features, appliances and building materials, renovations, maintenance, marketing and operational tasks will be far more varied and demanding than in a typical multi-family setting. We may be unable to operate a portfolio of single-family rental properties in a cost-effective and profitable manner and our business plan may not succeed.

We face significant competition in the leasing market for quality tenants, which may limit our ability to rent our single-family homes on favorable terms or at all.

We face competition for tenants from other lessors of single-family properties, apartment buildings and condominium units, and the continuing development of single-family properties, apartment buildings and condominium units in many of our markets increases the supply of housing and exacerbates competition for tenants. Competing properties may be newer, better located and more attractive to tenants. Potential competitors may have lower rates of occupancy than we do or may have superior access to capital and other resources than we do, which may result in competitive properties offered at lower rental rates than we might offer. Many of these competitors may successfully attract tenants with better incentives and amenities, which could adversely affect our ability to obtain quality tenants and lease our single-family properties on favorable terms or at all. Additionally, some competing housing options may qualify for government subsidies that may make such options more affordable and therefore more attractive than our properties.

In addition, increases in unemployment levels and other adverse changes in economic conditions in our markets may adversely affect the creditworthiness of potential residents, which may decrease the overall number of qualified residents for our properties within such markets. We could also be adversely affected by the development of competing properties or high vacancy rates of homes in our markets, which could result in an excess supply of homes and reduce occupancy and rental rates.

Improving economic conditions, along with the availability of historically low residential mortgage interest rates and government sponsored programs to promote home ownership, have made home ownership more affordable and more accessible for potential renters who have strong credit. These factors may encourage potential renters to purchase residences rather than lease them, thereby causing a decline in the number and quality of potential tenants available to us. No assurance can be given that we will be able to attract and retain qualified tenants. Our operating results and ability to make distributions to the Company’s shareholders would be adversely affected if we are not able to lease our properties on favorable terms or at all.

Environmentally hazardous conditions may adversely affect our financial condition, cash flows and operating results.

Under various federal, state and local environmental laws, a current or previous owner or operator of real property may be liable for the cost of removing or remediating hazardous or toxic substances on such property. Such laws often impose liability whether or not the owner or operator knew of, or was responsible for, the presence of such hazardous or toxic substances. Even if more than one person may have been responsible for the contamination, each person covered by applicable environmental laws may be held responsible for all of the clean-up costs incurred. In addition, third parties may sue the owner or operator of a site for damages based on personal injury, natural resources or property damage or other costs, including investigation and clean-up costs,

resulting from the environmental contamination. The presence of hazardous or toxic substances on one of our properties, or the failure to properly remediate a contaminated property, could give rise to a lien in favor of the government for costs it may incur to address the contamination, or otherwise adversely affect our ability to sell or lease the property or borrow using the property as collateral. Environmental laws also may impose restrictions on the manner in which properties may be used or businesses may be operated. A property owner who violates environmental laws may be subject to sanctions which may be enforced by governmental agencies or, in certain circumstances, private parties. In connection with the acquisition and ownership of our properties, we may be exposed to such costs. The cost of defending against environmental claims, of compliance with environmental regulatory requirements or of remediating any contaminated property could materially adversely affect our business, financial condition, results of operations and, consequently, amounts available for distribution to shareholders.

Compliance with new or more stringent environmental laws or regulations or stricter interpretation of existing laws may require material expenditures by us. We may be subject to environmental laws or regulations relating to our properties, such as those concerning lead-based paint, mold, asbestos, proximity to power lines or other issues. We cannot assure you that future laws, ordinances or regulations will not impose any material environmental liability, or that the current environmental condition of our properties will not be affected by the operations of residents, existing conditions of the land, operations in the vicinity of the properties or the activities of unrelated third parties. In addition, we may be required to comply with various local, state and federal fire, health, life-safety and similar regulations. Failure to comply with applicable laws and regulations could result in fines and/or damages, suspension of personnel, civil liability and/or other sanctions.

We may not be able to effectively control the timing and costs relating to the renovation of properties, which may adversely affect our operating results and our ability to make distributions on our preferred and common shares.

Nearly all of our properties require some level of renovation either immediately upon their acquisition or in the future following expiration of a lease or otherwise. We may acquire properties that we plan to renovate extensively. We also may acquire properties that we expect to be in good condition only to discover unforeseen defects and problems that require extensive renovation and capital expenditures. To the extent properties are leased to existing tenants, renovations may be postponed until the tenant vacates the premises, and we will pay the costs of renovating. In addition, from time to time, in order to reposition properties in the rental market, we will be required to make ongoing capital improvements and replacements and perform significant renovations and repairs that tenant deposits and insurance may not cover.

Our properties have infrastructure and appliances of varying ages and conditions. Consequently, we routinely retain independent contractors and trade professionals to perform physical repair work and are exposed to all of the risks inherent in property renovation and maintenance, including potential cost overruns, increases in labor and materials costs, delays by contractors in completing work, delays in the timing of receiving necessary work permits, certificates of occupancy and poor workmanship. If our assumptions regarding the costs or timing of renovation and maintenance across our properties prove to be materially inaccurate, our operating results and ability to make distributions to our shareholders may be adversely affected.

We face significant competition for acquisitions of our single-family rental properties, which may limit our strategic opportunities and increase the cost to acquire those properties.

We face significant competition for attractive acquisition opportunities in our target markets from other large real estate investors, some of which have greater financial resources and a lower cost of capital than we do. We also compete with individual private home buyers and small scale investors. Several REITs and other funds have deployed, and others may in the future deploy, significant amounts of capital to purchase single-family homes and may have investment objectives that overlap and compete with ours, including in our target markets. This activity may adversely impact our level of purchases in certain of our target markets. If our business model or a similar model proves to be successful, we can expect competition to intensify significantly. As a result, the purchase price of potential acquisition properties may be significantly elevated, or we may be unable to acquire properties on desirable terms or at all.

We may become a target of legal demands, litigation (including class actions) and negative publicity by tenant and consumer rights organizations, which could directly limit and constrain our operations and may result in significant litigation expenses and reputational harm.

Numerous tenant rights and consumer rights organizations exist throughout the country and operate in our markets, and we may attract attention from some of these organizations and become a target of legal demands, litigation and negative publicity. Many such consumer organizations have become more active and better funded in connection with mortgage foreclosure-related issues, and with the increased market for homes arising from displaced homeownership, some of these organizations may shift their

litigation, lobbying, fundraising and grass roots organizing activities to focus on landlord-resident issues. While we intend to conduct our business lawfully and in compliance with applicable landlord-tenant and consumer laws, such organizations might work in conjunction with trial and pro bono lawyers in one or multiple states to attempt to bring claims against us on a class action basis for damages or injunctive relief and to seek to publicize our activities in a negative light. We cannot anticipate what form such legal actions might take, or what remedies they may seek.

Additionally, such organizations may lobby local county and municipal attorneys or state attorneys general to pursue enforcement or litigation against us, may lobby state and local legislatures to pass new laws and regulations to constrain or limit our business operations, adversely impact our business or may generate negative publicity for our business and harm our reputation. If they are successful in any such endeavors, they could directly limit and constrain our operations and may impose on us significant litigation expenses, including settlements to avoid continued litigation or judgments for damages or injunctions.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS.

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES.

None.

ITEM 4. MINE SAFETY DISCLOSURES

None.

ITEM 5. OTHER INFORMATION.

None.

ITEM 6. EXHIBITS.

Exhibit No.	Description
<u>*3.1</u>	<u>Articles of Amendment and Restatement of AG Mortgage Investment Trust, Inc., incorporated by reference to Exhibit 3.1 of Amendment No. 2 to our Registration Statement on Form S-11, filed with the Securities and Exchange Commission on April 18, 2011 (“Pre-Effective Amendment No. 2”).</u>
<u>*3.2</u>	<u>Articles of Amendment to Articles of Amendment and Restatement of AG Mortgage Investment Trust, Inc., incorporated by reference to Exhibit 3.1 of Form 8-K, filed with the Securities and Exchange Commission on May 5, 2017.</u>
<u>*3.3</u>	<u>Amended and Restated Bylaws of AG Mortgage Investment Trust, Inc., incorporated by reference to Exhibit 3.1 of Pre-Effective Amendment No. 2.</u>
<u>*3.4</u>	<u>Articles Supplementary of 8.25% Series A Cumulative Redeemable Preferred Stock, incorporated by reference to Exhibit 3.1 of Form 8-K, filed with the Securities and Exchange Commission on August 2, 2012.</u>
<u>*3.5</u>	<u>Articles Supplementary of 8.00% Series B Cumulative Redeemable Preferred Stock, incorporated by reference to Exhibit 3.1 of Form 8-K, filed with the Securities and Exchange Commission on September 24, 2012.</u>
<u>*4.1</u>	<u>Specimen Stock Certificate of AG Mortgage Investment Trust, Inc., incorporated by reference to Exhibit 4.1 of Pre-Effective Amendment No. 2.</u>
<u>*4.2</u>	<u>Specimen 8.25% Series A Cumulative Redeemable Preferred Stock Certificate, incorporated by reference to Exhibit 4.1 of Form 8-K, filed with the Securities and Exchange Commission on August 2, 2012.</u>
<u>*4.3</u>	<u>Specimen 8.00% Series B Cumulative Redeemable Preferred Stock Certificate, incorporated by reference to Exhibit 4.1 of Form 8-K, filed with the Securities and Exchange Commission on September 24, 2012.</u>
<u>*10.1</u>	<u>Form of Registration Rights Agreement by and between the Company and the purchasers of units and shares in the private placement, dated June 29, 2011, incorporated by reference to Exhibit 10.1 of Amendment No. 7 to our Registration Statement on Form S-11, filed with the Securities and Exchange Commission on June 29, 2011 (“Pre-Effective Amendment No. 7”).</u>
<u>*10.2</u>	<u>Form of Management Agreement, dated June 29, 2011 by and between the Company and AG REIT Management, LLC, incorporated by reference to Exhibit 10.3 of Amendment No. 3 to our Registration Statement on Form S-11, filed with the Securities and Exchange Commission on April 25, 2011.**</u>
<u>*10.3</u>	<u>Equity Incentive Plan, dated July 6, 2011, incorporated by reference to Exhibit 10.4 of Pre-Effective Amendment No. 2.**</u>
<u>*10.4</u>	<u>Manager Equity Incentive Plan, dated July 6, 2011, incorporated by reference to Exhibit 10.5 of Pre-Effective Amendment No. 2.**</u>
<u>*10.5</u>	<u>Form of Equity Incentive Plan Restricted Stock Award Agreement, dated July 6, 2011, incorporated by reference to Exhibit 10.6 of Pre-Effective Amendment No. 2.**</u>
<u>*10.6</u>	<u>Form of Manager Equity Incentive Plan Restricted Stock Award Agreement, dated July 6, 2011, incorporated by reference to Exhibit 10.7 of Pre-Effective Amendment No. 2.**</u>
<u>*10.7</u>	<u>Form of Indemnification Agreement, dated July 6, 2011, by and between the Company and the Company’s directors and officers, incorporated by reference to Exhibit 10.10 of Pre-Effective Amendment No. 7.</u>

- [*10.8](#) [Amended and Restated Master Repurchase and Securities Contract dated as of April 12, 2013 between AG MIT, LLC, AG Mortgage Investment Trust, Inc. and Wells Fargo Bank, National Association, incorporated by reference to Exhibit 99.1 of Form 8-K, filed with the Securities and Exchange Commission on April 15, 2013.](#)
- [*10.9](#) [Guarantee Agreement dated as of April 9, 2012 by AG Mortgage Invest Trust, Inc. in favor of Wells Fargo Bank, National Association, incorporated by reference to Exhibit 99.2 of Form 8-K, filed with the Securities and Exchange Commission on April 10, 2012.](#)
- [*10.10](#) [Amended and Restated Master Repurchase and Securities Contract dated as of February 11, 2014 between AG MIT WFB1 2014 LLC and Wells Fargo Bank, National Association, incorporated by reference to Exhibit 99.1 of Form 8-K, filed with the Securities and Exchange Commission on February 21, 2014.](#)
- [*10.11](#) [Guarantee Agreement dated as of February 11, 2014 by AG MIT, LLC and AG Mortgage Invest Trust, Inc. in favor of Wells Fargo Bank, National Association, incorporated by reference to Exhibit 99.2 of Form 8-K, filed with the Securities and Exchange Commission on February 21, 2014.](#)
- [*10.12](#) [Master Repurchase and Securities Contract dated as of September 17, 2014, as amended by Omnibus Amendment No.1, dated as of August 4, 2015, between AG MIT CREL LLC and Wells Fargo Bank, National Association, incorporated by reference to Exhibit 99.1 of Form 8-K, filed with the Securities and Exchange Commission on September 18, 2014.](#)
- [*10.13](#) [Guarantee Agreement dated as of September 17, 2014 as amended by Omnibus Amendment No.1, dated as of August 4, 2015, by AG MIT, LLC and AG Mortgage Investment Trust, Inc. in favor of Wells Fargo Bank, National Association, incorporated by reference to Exhibit 99.2 of Form 8-K, filed with the Securities and Exchange Commission on September 18, 2014.](#)
- [*10.14](#) [Form of Restricted Stock Unit Award Agreement, dated July 1, 2014, incorporated by reference to Exhibit 10.14 on Form 10-Q, filed with the Securities and Exchange Commission on November 6, 2014.**](#)
- [*10.15](#) [Omnibus Amendment No.1 to Master Repurchase and Securities Contract, Guarantee Agreement and Fee and Pricing Letter dated as of August 4, 2015 between AG MIT CREL, LLC and Wells Fargo Bank, National Association, incorporated by reference to Exhibit 10.15 of Form 10-Q, filed with the Securities and Exchange Commission on August 6, 2015.](#)
- [*10.16](#) [Form of Restricted Stock Unit Award Agreement, dated July 1, 2017, incorporated by reference to Exhibit 10.14 on Form 10-Q, filed with the Securities and Exchange Commission on August 9, 2017.**](#)
- [*10.17](#) [Amendment No. 1 to the Equity Distribution Agreement, dated May 22, 2018, by and among the Company and JMP Securities LLC, incorporated by reference to Exhibit 1.1 of Form 8-K, filed with the Securities and Exchange Commission on May 22, 2018.](#)
- [*10.18](#) [Amendment No. 1 to the Equity Distribution Agreement, dated May 22, 2018, by and among the Company and Credit Suisse Securities \(USA\) LLC, incorporated by reference to Exhibit 1.2 of Form 8-K, filed with the Securities and Exchange Commission on May 22, 2018.](#)
- [*10.19](#) [Amendment Number 7 to the Master Repurchase and Securities Contract dated as of and effective as of February 18, 2014 between AG MIT WFB1 2014 LLC and Wells Fargo Bank, National Association, incorporated by reference to Exhibit 10.1 of Form 8-K, filed with the Securities and Exchange Commission on June 25, 2018.](#)
- [10.20](#) [Purchase and Sale Agreement, dated August 31, 2018, by and among Conrex Residential Property Group 2012-2, LLC, Conrex Residential Property Group 2012-2 Operating Company, LLC, Conrex Residential Property Group 2012-2 \(B2R-1\) Operating Company, LLC, Conrex Residential Property Group 2012-2 \(B2R-2\) Operating Company, LLC, Ovation Properties, LLC, and SFR MT LLC.](#)

<u>10.21</u>	<u>Loan Agreement, dated as of September 10, 2018, by and between SFR MT LLC and Metropolitan Life Insurance Company.</u>
<u>31.1</u>	<u>Certification of David N. Roberts pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>
<u>31.2</u>	<u>Certification of Brian C. Sigman pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>
<u>32.1</u>	<u>Certification of David N. Roberts pursuant to Rule 13a-14(b) and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u>
<u>32.2</u>	<u>Certification of Brian C. Sigman pursuant to Rule 13a-14(b) and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u>
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

* Fully or partly previously filed.

** Management contract or compensatory plan or arrangement.

SIGNATURES

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

AG MORTGAGE INVESTMENT TRUST, INC.

November 9, 2018

By: /s/ David N. Roberts

David N. Roberts

Chief Executive Officer (principal executive officer)

November 9, 2018

By: /s/ Brian C. Sigman

Brian C. Sigman

Chief Financial Officer and Treasurer (principal financial officer and principal accounting officer)

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “Agreement”) dated August 31, 2018 (the “Effective Date”) is entered into by and among Conrex Residential Property Group 2012-2, LLC, a South Carolina limited liability company, Conrex Residential Property Group 2012-2 Operating Company, LLC, a Delaware limited liability company, Conrex Residential Property Group 2012-2 (B2R-1) Operating Company, LLC, a Delaware limited liability company, and Conrex Residential Property Group 2012-2 (B2R-2) Operating Company, LLC, a Delaware limited liability company (collectively, “Series 2”), Ovation Properties, LLC, a Texas limited liability company (“Ovation”) (Series 2 and Ovation may be individually referred to as a “Seller Entity” and collectively as “Seller”), and SFR MT LLC, a Delaware limited liability company (“Purchaser”). In consideration of the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

1. SALE OF PROPERTY

A. **Purchase and Sale.** Subject to the terms and provisions of this Agreement, (1) Series 2 agrees to sell to Purchaser and Purchaser agrees to purchase from Series 2, all of its right, title and interest in the real property (including land and all buildings, structures and improvements thereon), consisting of eight hundred two (802) single family residential properties commonly known by the addresses set forth on Exhibit A-1, and (2) Ovation agrees to sell to Purchaser and Purchaser agrees to purchase from Ovation, all of its right, title and interest in the real property (including land and all buildings, structures and improvements thereon), consisting of four hundred twenty three (423) single family residential properties commonly known by the addresses set forth on Exhibit A-2 (collectively, with Exhibit A-1, “Exhibit A”) attached hereto and incorporated herein, together with, with respect to the applicable Seller Entity:

- (i) any personal property owned by such Seller Entity and presently located on the Property (collectively, the “Personal Property”);
- (ii) all of the interest of the applicable Seller Entity in any leases, subleases, rental agreements or other agreements (written or verbal, now or hereafter in effect) that grant a possessory interest in or that otherwise grant rights with regard to use of all or any portion of the Property (collectively, the “Leases”); and
- (iii) all books, records, data, rental history, property and tenant files, rent rolls and repair and maintenance records associated with the Property in the possession of such Seller Entity or the applicable Property Manager.

All of the dwelling units collectively are referred to as “Property”; an individual dwelling unit is referred to as a “Property”; and more than one dwelling unit are referred to as the “Properties”.

“Property Manager” shall refer to Conrex Property Management, LLC (“Conrex Property Manager”), Salem Street Realty, Turner Properties, LLC, Marchant Property Manager, LLC, and each other property management company that, on or before the Closing Date, provided property management services with respect to any of the Properties.

2. PURCHASE PRICE

A. **Purchase Price.** Seller and Purchaser hereby acknowledge and agree that the purchase price of the Property shall be one hundred thirty nine million five hundred forty nine thousand four hundred twenty dollars (\$139,549,420.00) (the “Purchase Price”). The Purchase Price shall be allocated to each individual Property (any such allocated amount being the related “Allocated Purchase Price”) and Seller Entity as set forth on Exhibit A.

B. **Payment of Purchase Price.** The Purchase Price shall be payable at Closing (as defined below). On or prior to the Closing Date (as defined below), Purchaser shall deposit in escrow with Chicago Title Insurance Company (“Escrow Agent”) in immediately available funds (the “Cash Due at Closing”) the amount of the Purchase Price subject to any adjustments pursuant to Sections 3(D), 4(B), 6(B), 6(C), 6(D) and 6(E) of this Agreement.

C. **Earnest Money.** Within five (5) days after the Effective Date or such later date as the Parties may agree, (i) Purchaser and Seller shall create an earnest money escrow (the “Escrow”) with the Escrow Agent, and (ii) Purchaser shall deposit the sum of \$6,980,846.00 (the “Earnest Money”) in the Escrow. The Escrow shall be maintained in accordance with an agreement on the Escrow Agent’s usual form, with any amendments agreed to by the parties thereto, and modified to provide for disbursement of the Earnest Money in accordance with the terms and conditions hereof (the “Escrow Agreement”). If requested by Purchaser, the Earnest Money shall be invested, at Purchaser’s expense, and the earnings shall be paid to Purchaser at the Closing or upon return of the Earnest Money, provided that Seller shall not be liable for any loss to the Earnest Money and Purchaser shall be liable for the same, and where this Agreement provides for disbursement of the Earnest Money to Seller, Seller shall be entitled to no less than \$6,980,846.00. The Earnest Money shall be applied to the Purchase Price at the Closing or otherwise disbursed in accordance with the terms of this Agreement.

3. PROPERTY CONDITION

A. Delivery of Property Information:

(i) On or prior to the end of the Due Diligence Period (as defined below), Seller shall make available to Purchaser and Purchaser’s Agents (as defined herein), through a shared access website, copies of the following items relating to the Property:

(a) Leases for the Properties, which as of the Effective Date are leased;

(b) A rent roll showing, the current tenants occupying the Properties under Leases (the “Rent Roll”), lease end date, current rent, and security deposits; and

(c) All other documents set forth on the Diligence Request, a copy of which is attached hereto as Appendix 2.

(ii) Within a commercially reasonable period of time after the Effective Date, but no later than the end of the Due Diligence Period, and to the extent in Seller’s possession or control, Seller shall make available to Purchaser and Purchaser’s Agents, through a shared access website, copies of the following items relating to the Property:

(a) The repair, maintenance and capital expenditure records for each Property;

(b) HOA documents necessary for Purchaser to review rental related restrictions for each Property; and

(c) Any other internal and external reports, books, records, contracts, data, documentation and any other information related to each Property that Purchaser may reasonably request.

B. **Inspection of the Property**. Beginning on July 18, 2018 and ending at 6:00 pm Eastern time on September 4, 2018 (the “Due Diligence Period”), Purchaser and Purchaser’s affiliates, engineers, employees, agents and representatives (“Purchaser’s Agents”) shall have the right (subject to the Inspection Cap) to undertake a due diligence review of 100% of the Property. Any and all diligence activities shall be governed by the Access Agreement, dated as of July 20, 2018, by and between Seller and Purchaser, as amended from time to time (the “Access Agreement”). During the Due Diligence Period, with prior written notice of no less than two (2) days to Seller, and at reasonable times, Purchaser shall also have the right to conduct inspections of the Property, including, without limitation, physical examinations, structural tests, due diligence investigations, and feasibility studies (collectively, the “Inspections”). Seller shall give Purchaser and Purchaser’s Agents reasonable access to relevant personnel during regular business hours and with reasonable prior written notice and shall provide access to all internal and external reports, books, records, contracts, data, documentation and any other information related to the Property in Seller’s possession or control. Seller shall provide access to all requested documentation and information in Seller’s possession or control in a timely manner. Seller shall provide interior access (on a one time basis) for up to fifteen percent (15%) of the occupied Properties (the “Inspection Cap”). Seller and Purchaser shall confer promptly after the Effective Date to identify the Properties for which Seller will attempt to provide access. All Inspections shall be conducted in compliance with the Access Agreement and subject to the rights of all tenants in possession. Purchaser agrees that it shall not enter any homes currently leased to a tenant without a representative of the applicable

Seller Entity being present, and only upon advance notice to the respective tenant(s), as required under the terms of the applicable Lease. Notwithstanding the foregoing, Seller reserves the right to have a representative of Seller accompany Purchaser or its contractors, agents, employees and the like, during any Inspection or the conduct of any other physical investigation of the Property. The parties hereto hereby agree that Closing shall be conditioned upon Purchaser obtaining acceptable financing prior to the expiration of the Due Diligence Period.

C. **Due Diligence Period and Right to Terminate.** In Purchaser's sole and absolute discretion, in the event Purchaser is dissatisfied with its due diligence or unable to secure financing, Purchaser may elect to terminate this Agreement by sending Seller notice thereof in accordance with Section 10(C) hereof, on or prior to the expiration of the Due Diligence Period. In the event of such termination, the Earnest Money (less any costs of Escrow payable by Purchaser hereunder or under the Escrow Agreement) shall be returned to Purchaser and neither party shall have any further rights or obligations hereunder except for those which are expressly stated to survive the termination of this Agreement. Purchaser may agree to purchase the Property or any Properties (subject to the terms of Section 3(D) hereof) or agree to proceed to Closing prior to the end of the Due Diligence Period by providing written notice to Seller at any time during the Due Diligence Period. If Purchaser does not terminate this Agreement on or before the expiration of the Due Diligence Period, the parties shall, subject to the terms and conditions set forth in this Agreement, proceed to Closing and Purchaser shall have no further right to terminate the Agreement pursuant to this Section 3(C), and the Earnest Money shall be non-refundable to Purchaser except as provided for in this Agreement.

D. **Adjustment of Purchase Price.** Subject to the terms and conditions hereinafter set forth in this Section 3(D), Purchaser shall also have the right to exclude a Property from the Properties being sold to Purchaser if any of the following conditions (each, a "Condition of Removal") apply with respect to a Property: (1) such Property is in material violation of Environmental Laws; (2) the data in the property tape Seller provided to Purchaser attached hereto as Exhibit G for such Property contains material inaccuracies; (3) a breach of a representation or warranty with respect to such Property that has an Individual Material Adverse Effect (as defined below) with respect to such Property, or (4) the rules, regulations or restrictions of the homeowners association to which such Property is subject prevent or restrict such Property from being leased Seller or Purchaser is unable to obtain a waiver of such restriction from the applicable homeowners association. "Individual Material Adverse Effect" means, in respect of any Property, any event or condition that has, or would be reasonably expected to have, a material adverse effect on the value, use, operation, leasing or marketability of such Property or results in any material liability to, claim against or obligation of Purchaser or Purchaser's Agents. Notwithstanding the foregoing, in no event shall Purchaser be entitled to exclude more than five percent (5%) of the Properties from the Properties being sold to Purchaser pursuant to the provisions of this Section 3(D). Each Property to which a Condition of Removal applies is referred to herein as a "Deficient Property" and collectively as the "Deficient Properties". If Purchaser desires to remove Deficient Properties from the Properties being sold to Purchaser, Purchaser shall be required to send written notice to Seller and Escrow

Agent not later than the expiration of the Due Diligence Period which identifies the Deficient Properties and sets forth with reasonable specificity the Condition of Removal applicable to each identified Deficient Property. If Purchaser sends the written notice identifying the Deficient Properties as required pursuant to the preceding sentence and Seller fails, within three (3) days of receipt of such notice, to (i) cure the cause of the identified Condition of Removal, or (ii) if the identified Condition of Removal is otherwise reasonably susceptible to being cured, provide written notice of its intent to cure such identified Condition of Removal at or prior to Closing, such Deficient Properties shall be removed from the Properties being sold to Purchaser and the Purchaser shall only pay the Allocated Purchase Price of the individual Properties being purchased; if Seller elects to cure an identified Condition of Removal and fails cure such identified Condition of Removal by the Closing, the related Property shall be excluded and the Purchase Price for the Properties being sold to Purchaser shall be reduced by the Allocated Purchase Price of the related Property. Based on the results of Purchaser's due diligence and requirements of its lender regarding eligible properties, the Purchase Price for the Properties being sold to Purchaser may be subject to reduction and/or the creation of reserves relating to the satisfaction of certain to be agreed, reasonable post-closing conditions (collectively, the "Post Closing Conditions"). Any reserve established with respect to any single Property shall terminate and all funds shall be released to Seller upon satisfaction of the Post Closing Conditions related to such single Property, and shall be subject to such terms as the parties may agree to. Upon satisfaction of all Post Closing Conditions for all Properties to which Post Closing Conditions apply, all reserves, if not sooner terminated, shall terminate and all remaining funds shall be immediately released to Seller.

4. TITLE REVIEW

A. **Title Commitment.** Purchaser shall use commercially reasonable efforts to obtain a current standard form commitment for title insurance for each Property no later than the expiration of the Due Diligence Period, issued by or on behalf of Escrow Agent or a national underwriter reasonably satisfactory to Purchaser ("Title Company"; each such commitment, a "Commitment" and collectively, the "Commitments") describing such Property, listing Purchaser as the proposed insured, showing the Purchase Price allocated to the applicable Properties as the policy amount and including legible copies of all recorded documents evidencing title exceptions. The Commitments shall be subject only to those title exceptions permitted by this Agreement or as may be approved or deemed approved by Purchaser during the Due Diligence Period. The cost of the title examination fees and municipal lien search fees, and the cost of Purchaser's owner's title policy (the "Purchaser's Title Policy") shall be allocated in the manner described in Section 6.

B. **Review of Title.** If any exceptions appear in a Commitment that are unacceptable to Purchaser, Purchaser shall notify Seller in writing of such objections (the "Purchaser's Title Objections") on or before August 31, 2018 (the "Title Objection Deadline"). "Permitted Exceptions" shall refer to (i) all exceptions other than Purchaser's Title Objections which are not otherwise waived, (ii) all exceptions which are caused or created by or under Purchaser or its agents, contractors, or employees, (iii) taxes not yet delinquent, (iv) all Leases of the Property or any portion

thereof, and (v) all zoning restrictions. Seller shall have no obligation to cure Purchaser's Title Objections, to bring any action or proceeding, or otherwise to incur any expense whatsoever to eliminate, cure, or modify Purchaser's Title Objections, except for monetary liens of an ascertainable amount created by Seller or Seller's actions, which liens Seller shall cause to be released at or prior to Closing and which may be satisfied from the proceeds of the sale contemplated by this Agreement. Within three (3) days after Seller's receipt of Purchaser's Title Objections, Seller shall deliver written notice to Purchaser advising Purchaser whether Seller intends to cure any of Purchaser's Title Objections (the "Response Notice"). Seller's failure to timely deliver the Response Notice to Purchaser within such three (3) day period shall be deemed to constitute an election by Seller not to cure Purchaser's Title Objections. If Seller elects (or is deemed to have elected) not to cure any of Purchaser's Title Objections with respect to a specific Property or Properties, then Purchaser may elect by written notice to Seller given within one (1) day after receipt of Seller's Response Notice to (i) remove the subject Properties from the Properties being sold to Purchaser and pay only the Allocated Purchase Price of such Properties being purchased, (ii) waive Purchaser's Title Objections, consummate the transaction contemplated herein, and accept such title as Seller has elected to deliver without any reduction in Purchase Price or (iii) mutually agree with Seller to a Purchase Price adjustment for such Property. The failure of Purchaser to timely send notice to Seller of Purchaser's election in the preceding sentence shall be deemed to mean that Purchaser has elected item (i) of the preceding sentence.

C. **Title Insurance Policies**. As a condition to Seller's obligation to close, Purchaser shall furnish Seller with copies of the Commitments on or prior to Closing. Purchaser hereby covenants and agrees to obtain one or more title insurance policies pursuant to such Commitments within a reasonable period following the Closing, the cost of which shall be reflected on the Settlement Statement (as hereinafter defined) and paid at the Closing.

5. WARRANTIES AND REPRESENTATIONS

A. **Seller Warranties and Representations**. Each Seller Entity represents and warrants, severally and not jointly, to Purchaser as of the Effective Date and as of the Closing Date with respect to such Seller Entity and such Seller Entity's Properties only that:

(i) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state of its formation and has full power and authority to enter into and to perform its obligations under this Agreement. The persons executing this Agreement on behalf of Seller have full power and authority to do so and to perform every act and to execute and deliver every document and instrument necessary or appropriate to consummate the transactions contemplated by this Agreement;

(ii) All entity action on the part of Seller and its constituents, which is required for the execution, delivery and performance by Seller of this Agreement and each

of the documents and agreements to be delivered by Seller at the Closing has been duly and effectively taken;

(iii) This Agreement and each of the documents and agreements to be delivered by Seller at Closing, constitute legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, moratorium, or similar laws affecting the enforcement of creditors' rights generally, and subject, as to enforceability, to general principles of equity, regardless of whether enforcement is sought in a court of law or equity;

(iv) Neither the execution of this Agreement nor the performance by Seller of its obligations under this Agreement will result in any breach or violation of (i) the terms of any law, rule, ordinance, or regulation; or (ii) any decree, judgment or order to which Seller or any constituent member of Seller is a party now in effect from any court or governmental body. There are no consents, waivers, authorizations or approvals from any third party necessary to be obtained by Seller in order to carry out the transactions contemplated by this Agreement. The execution and delivery of this Agreement and performance by Seller of its obligations under this Agreement will not conflict with or result in a material breach or default (or constitute an event which, with the giving of notice or the passage of time, or both, would constitute a default) under Seller's organizational documents or any indenture, mortgage, lease, agreement, or other instrument to which Seller is a party or by which Seller or any of its assets may be bound other than with respect to any outstanding indebtedness to be satisfied at or prior to Closing;

(v) Seller is not a "Specially Designated National" or a prohibited person under Executive Order 13224 – Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit or Support Terrorism, as amended or the regulations issued pursuant thereto (collectively "Executive Order 13224"), and Seller is not owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship or services of any kind to, or otherwise knowingly associated with any of the persons or entities referred to or described in Executive Order 13224, or banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control;

(vi) The Property has not been condemned in whole or in part. No proceeding is pending or, to Seller's Knowledge, threatened in writing for the condemnation of the Property. Each Property is in a good, safe and habitable condition and repair, and to Seller's Knowledge, is free of and clear of any damage or waste that has a material adverse effect on any individual Property;

(vii) To Seller's Knowledge, neither Seller nor Seller's affiliates or Seller's agents have ever, generated, stored or disposed of any Hazardous Substances at the Property other than *de minimis* amounts of any such Hazardous Substances which substances and amounts are typical for homeowner use;

(viii) To Seller's Knowledge, the Property is not in material violation of any Environmental Laws;

(ix) Except for eviction proceedings and other suits for possession initiated in the ordinary course of Seller's business and described on the Rent Roll (which Purchaser acknowledges may change after delivery and prior to Closing), to Seller's Knowledge, there are no actions, suits or proceedings at law or in equity by or before any governmental authority or other entity pending or threatened in writing against or affecting the Property or Seller, which actions, suits or proceedings would reasonably be expected to have a material adverse effect on such Property;

(x) There are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws contemplated or filed by any Seller Entity or pending against any Seller Entity or otherwise related to the Property. Each Seller Entity is solvent and has adequate capital for its business and undertakings;

(xi) Seller has good and marketable fee simple legal and equitable title to the real property comprising the Property.

(xii) The Permitted Exceptions with respect to the Property, in the aggregate, do not have a material adverse effect on the Property. Each Seller Entity's ownership of the Property is free and clear of any liens other than Permitted Exceptions. At or prior to Closing, all taxes, governmental assessments and any other payments (including, but not limited to, sewer, water and utility payments) due and owing for periods prior to Closing in respect of the Property will be paid, or an escrow of funds in an amount sufficient to cover such payments will be established hereunder or will be insured against by the Purchaser's Title Policy for such individual Property. Each Property is comprised of one (1) or more parcels which constitute separate tax lots and do not constitute a portion of any other tax lot not a part of such Property;

(xiii) There are no delinquent property taxes or HOA fees outstanding with respect to the Property. As of the Closing Date, none of Seller or the applicable Property Managers has received written notice of any pending or, proposed, special or other assessments for homeowner's association improvements affecting any Property that would reasonably be expected to have an individual material adverse effect with respect to such Property;

(xiv) As of the Closing Date, any payments, free rent, partial rent, rebate of rent or other payments, credits, allowances or abatements (other than those set forth on Schedule VI hereto) required to be given to the relevant tenant prior to the Closing Date, will have been provided to such tenant (including reductions in monthly Rent during the term of the related Lease in other similar fashion);

(xv) As of the Closing Date, no claims have been made that are currently pending, outstanding or otherwise remain unsatisfied under any insurance policies relating to the Property;

(xvi) There are no orders, injunctions, decrees or judgments outstanding with respect to the Property other than with respect to indebtedness to be repaid at Closing;

(xvii) Seller is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which the Property is bound. Other than indebtedness that will be repaid at Closing, Seller has no material financial obligation under any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument by which the Property is bound. Seller is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Exception with respect to any Property. Neither the Property nor any part thereof is subject to any purchase options, rights of first refusal to purchase, rights of first offer to purchase or other similar rights in favor of any tenant or other third parties other than with respect to indebtedness to be repaid at Closing;

(xviii) Each Property is a single family residential property. Such Property is not a housing cooperative or manufactured housing;

(xix) The Property has rights of access to public ways and is served by water, sewer or septic system, and storm drain facilities adequate to service the Property for its intended uses and all public utilities necessary or convenient to the full use and enjoyment of the Property are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded or unrecorded easements serving the Property and all roads necessary for the use of the Property for its intended purposes have been completed and dedicated to public use and accepted by all governmental authorities;

(xx) There is no proceeding pending or, to Seller's Knowledge, threatened, for the total or partial condemnation or for the relocation of roadways resulting in a failure of access to the Property on public roads;

(xxi) The Property is not located in an area identified by the Federal Emergency Management Agency as a special flood hazard area, or, if so located flood insurance required under the National Flood Insurance Program. Schedule I to this Agreement is a true, complete and accurate list which shows the flood zone designation of each Property as identified by the Federal Emergency Management Agency;

(xxii) Each Seller Entity has a Title Insurance Owner's Policy (herein referred to as the "Seller's Owner's Policy") insuring fee simple ownership of such Property by such Seller Entity and each Seller Entity has provided Purchaser with a true, correct and complete copy of such Seller's Owner's Policy;

(xxiii) Each Property's deed has been recorded with vesting in the actual name of the applicable Seller Entity, with all fees, deed stamps and other transfer taxes paid;

(xxiv) The Property is covered by property, casualty, liability and other insurance, with the same coverage and deductibles as in effect prior to the Effective Date, deemed commercially reasonable by Seller in the conduct of its business. Seller has not taken (or omitted to take) any action that would impair or invalidate the coverage provided by any such insurance policies. As of the Closing, no claims have been made that are currently pending or outstanding, or that otherwise remain unsatisfied under any such policies, except as provided on Schedule IV hereto;

(xxv) All information with respect to the Property provided to Purchaser, including all information on the data tape referenced on Exhibit G hereto, is true, complete and accurate in all material respects. Schedule II is a true, complete and accurate list of the Properties which identifies all of the HOAs affecting each Property, if any. To Seller's Knowledge, Schedule II contains a true, correct and complete contact information of the HOAs pertaining to the applicable HOA Properties, if any; and

(xxvi) The Property (including the leasing and intended use thereof for single family residential purposes) complies with all applicable laws, and all covenants, agreements, restrictions and encumbrances, that are contained in any instruments, either of record or Known to Seller, at any time in force affecting the Property or any part thereof, including any which may (i) require repairs, modifications or alterations in or to the Property or any part thereof in an aggregate amount, with respect to each property, greater than \$5,000 and as set forth on Schedule V hereto, or (ii) in any way limit the use and enjoyment thereof for single family residential purposes, including, without limitation, building and zoning ordinances and codes and all certifications, permits, licenses and approvals, including without limitation, certificates of completion and occupancy permits, required for the legal leasing, use, occupancy, habitability and operation of such Property, except as would not reasonably be expected to have a material adverse effect with respect to the Property. There is no consent, approval, permit, license, order or authorization of, and no filing

with or notice to, any court or governmental authority required for the operation, use or leasing of the Property that has not been obtained, except as would not reasonably be expected to have a material adverse effect with respect to the Property. There has not been committed by any Seller Entity or, to Seller's Knowledge, any other person in occupancy of or involved with the operation, use or leasing of the Property any act or omission affording any governmental authority the right of forfeiture as against the Property or any part thereof.

B. **Purchaser Warranties and Representations.** Purchaser represents and warrants to Seller as of the Effective Date and as of the Closing Date that:

(i) Purchaser is a limited liability company in good standing, duly formed and validly existing under the laws of the State of Delaware and is an indirect, wholly owned subsidiary of AG Mortgage Investment Trust, Inc. Purchaser has the authority and power to enter into this Agreement and to consummate the transaction provided for herein. This Agreement and all other documents executed and delivered by Purchaser constitute legal, valid, binding and enforceable obligations of Purchaser, and there are no claims or defenses, personal or otherwise, or offsets whatsoever to the enforceability or validity of this Agreement. The person executing this Agreement on behalf of Purchaser has been duly authorized to do so;

(ii) All entity action on the part of Purchaser and its constituents, which is required for the execution, delivery and performance by Purchaser of this Agreement and each of the documents and agreements to be delivered by Purchaser at the Closing has been duly and effectively taken;

(iii) This Agreement and each of the documents and agreements to be delivered by Purchaser at Closing, constitute legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, moratorium, or similar laws affecting the enforcement of creditors' rights generally, and subject, as to enforceability, to general principles of equity, regardless of whether enforcement is sought in a court of law or equity;

(iv) Neither the execution of this Agreement nor the performance by Purchaser of its obligations under this Agreement will result in any breach or violation of (i) the terms of any law, rule, ordinance, or regulation; or (ii) any decree, judgment or order to which Purchaser or any constituent member of Purchaser is a party now in effect from any court or governmental body. There are no consents, waivers, authorizations or approvals from any third party necessary to be obtained by Purchaser in order to carry out the transactions contemplated by this Agreement. The execution and delivery of this Agreement and performance by Purchaser of its

obligations under this Agreement will not conflict with or result in a breach or default (or constitute an event which, with the giving of notice or the passage of time, or both, would constitute a default) under Purchaser's organizational documents or any indenture, mortgage, lease, agreement, or other instrument to which Purchaser is a party or by which Purchaser or any of its assets may be bound;

(v) To the knowledge of Purchaser, there are no actions, suits or proceedings at law or in equity by or before any governmental authority or other entity pending or threatened in writing against or affecting Purchaser;

(vi) There are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws contemplated or filed by Purchaser or pending against Purchaser. Purchaser is solvent and has adequate capital for its business and undertakings, including the acquisition contemplated by this Agreement; and

(vii) Purchaser is not a "Specially Designated National" or a prohibited person under Executive Order 13224, and Purchaser is not owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship or services of any kind to, or otherwise knowingly associated with any of the persons or entities referred to or described in Executive Order 13224, or banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control.

C. **Definitions.** As used in this Agreement:

(i) the term "Environmental Laws" shall mean any local, state or federal ordinance, law, rule or regulation, pertaining to environmental regulation, contamination, cleanup or disclosure, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., the Resource, Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 100 Stat. 1613, the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. § 1101 et seq., any state environmental laws (for the state in which each Property is located), and all amendments of the foregoing, or any state super lien or environmental clean-up or disclosure statutes.

(ii) The term "Hazardous Substances" shall mean all substances and materials which are included under or regulated by any Environmental Law, together with

asbestos, polychlorinated biphenyls, petroleum products and raw materials which include hazardous constituents.

(iii) The phrases “Known by Seller”, “Knows”, “Seller’s Knowledge” or words of similar import, shall mean the present and actual knowledge of Ralph Nacey, Eric Phillipps and John Grzyb acquired after due inquiry of the relevant employees of each Seller Entity and of each Property Manager.

D. **Exception to Warranty Notice.** If, at any time prior to the Closing, a Seller Entity, or any representative of a Seller Entity, learns of any facts or circumstances, which would render any of the foregoing representations and warranties untrue for the Properties that are the subject of the Closing, then such Seller Entity shall promptly notify Purchaser in writing of all such facts and circumstances (an “Exception to Warranty Notice”) and Purchaser shall have the right, within five (5) business days following receipt of an Exception to Warranty Notice, to elect to (i) remove the subject Properties from the Properties being sold to Purchaser and pay only the Allocated Purchase Price of the Properties being purchased; or (ii) waive any claim against such Seller Entity arising out of or related to the information disclosed and proceed with the transaction, in which case the representation or warranty shall be deemed modified with respect to such Property as necessary to conform with the additional information disclosed to Purchaser in the Exception to Warranty Notice. Purchaser’s failure to respond in such time period shall be deemed an election to proceed in accordance with clause (ii) above. The representations, warranties and covenants of the Seller Entities, and the Purchaser’s right to indemnification with respect thereto, shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Purchaser (including by any of its representatives) or by reason of the fact that the Purchaser or any of its representatives knew or should have known that any such representation or warranty is, or was or might be inaccurate or by reason of the Purchaser’s waiver of any condition to closing.

E. **Indemnification Provisions.**

(i) The representations and warranties of the parties hereto contained in this Agreement or any certificate given in connection herewith shall survive the Closing for a period of twelve (12) months; provided, that any claim made with reasonable specificity by the party seeking to be indemnified within the time periods set forth in this Section 5(E) shall survive until such claim is finally and fully resolved (such period, the “Liability Period”). Each of Purchaser and Seller shall be entitled to bring a claim hereunder in respect of the covenants of the parties hereto contained in this Agreement to be performed in full prior to the Closing at any time until the twelve (12) month anniversary of the Closing Date.

(ii) During the Liability Period, each Seller Entity shall severally, and not jointly, indemnify and hold harmless Purchaser and Purchaser’s Agents, and their respective officers, directors, employees, agents, successors and assigns (each, a “Purchaser”

Indemnified Party”) for and against all losses, to the extent arising out of or resulting from: (a) any breach of any representation or warranty in this Agreement or certifications given in connection with this Agreement by such Seller Entity, and (b) any breach of any covenant or agreement contained in this Agreement requiring performance by such Seller Entity (any such amount a “Seller Indemnity Payment”). In order to secure their respective obligations under this Section 5.E.(ii), each of Series 2 and Ovation shall, on the Closing Date, fund by wire transfer of immediately available funds an indemnity escrow account (each, a “Seller Indemnity Escrow” and collectively, the “Seller Indemnity Escrows”), each in an amount equal to five percent (5%) of the portion of the Purchase Price allocable to the individual Properties held by the respective Seller Entity. Each Seller Indemnity Escrow shall be funded for a period lasting six (6) months from the Closing Date; provided, however, that with respect to either Seller Indemnity Escrow, such Seller Indemnity Escrow shall remain funded after such six-month period in the event that any Purchaser Indemnified Party has provided notice prior to the end of such six (6) month period of a claim against the applicable Seller Entity in accordance with this Section 5(E)(ii) and shall remain funded until the resolution of such claim. Each Seller Indemnity Escrow shall be established pursuant to an agreement among Purchaser, the applicable Seller Entity, and a third party escrow agent reasonably acceptable to such Seller Entity and Purchaser (the “Seller Indemnity Escrow Agent”), the terms of which agreement shall reflect the applicable terms of this Agreement and be acceptable to Purchaser and the applicable Seller Entity. The Purchaser Indemnified Parties shall be entitled to receive any Seller Indemnity Payment solely from amounts on deposit in the applicable Seller Indemnity Escrow, provided, however that in the case of, and to the extent, any Seller Indemnity Payment to be paid on account of any loss which a Purchaser Indemnified Party may, directly or indirectly, suffer, sustain or become subject to, as a result of, arising out of, relating from any fraud, intentional misrepresentation, willful concealment or willful misconduct by any Seller Entity hereto, in which case, such Purchaser Indemnified Party may seek recovery from such Seller Entity directly of any amounts due in excess of the amount in the applicable Seller Indemnity Escrow; provided, further, that if a claim may also be covered pursuant to the title insurance policies provided for in Section 4.C., Purchaser shall diligently pursue a claim under such policy and upon receipt of insurance proceeds for such claim shall reimburse the applicable Seller Entity the amount of the net insurance proceeds, not to exceed the related Seller Indemnity Payment paid hereunder.

(iii) During the Liability Period, Purchaser shall indemnify and hold harmless Seller and their affiliates, and their respective officers, directors, employees, agents, successors and assigns (each, a “Seller Indemnified Party”) for and against any and all losses, arising out of or resulting from: (a) any breach of any representation or warranty in this Agreement by Purchaser or any certificate given by Purchaser in

connection with this Agreement, and (b) any breach of any covenant or agreement contained in this Agreement requiring performance by Purchaser.

(iv) Any indemnity payments made by Seller or Purchaser pursuant to this Section 5(E) shall be treated as an adjustment to the Purchase Price for federal, state and local income tax purposes, except as otherwise required by applicable law.

(v) Nothing in this Section 5(E) or in Section 8(A) will limit any remedy either party may have against any Person for fraud committed by such Person. In the absence of fraud, willful misconduct or, with respect to the third sentence of Section 8.A. only, bad faith of Seller, the indemnification provisions set forth in this Section 5.E. shall provide the exclusive remedy for breach of any covenant, agreement, representation or warranty set forth in this Agreement or any other agreement ancillary hereto executed pursuant to this Agreement; provided however, such limitation shall not impair the rights of any of the Parties to seek non-monetary equitable relief, including specific performance or injunctive relief to redress any default or breach of this Agreement.

6. CLOSING

A. **Time and Place of Closing.** Provided that all of the conditions of this Agreement shall have been satisfied or waived, the closing of the purchase and sale of the Property and the transaction contemplated herein (the "Closing") shall take place through an escrow with Escrow Agent on or before September 10, 2018 (the "Closing Date"). The Closing may be held at such other place or such earlier time and date as Seller and Purchaser shall mutually approve in writing.

B. **Expenses of the Parties.** Purchaser and Seller shall each be responsible for their respective costs and expenses (including, but not limited to legal, diligence, accounting and other related expenses) incurred in the structuring and negotiation of this Agreement.

C. **Expenses.** Purchaser shall pay (i) the cost of the title examination fees and municipal lien search fees, (ii) 50% of the escrow fees charged by Escrow Agent, (iii) the cost of any endorsements, increased coverages or premium for any lender's title policy as may be desired by Purchaser or required by Purchaser, (iv) its own attorney's fees, (v) any and all costs incurred in connection with Purchaser's Inspections of the Property, and (vi) all costs incurred in connection with obtaining financing. Seller shall pay (i) 50% of the escrow fees charged by Escrow Agent and (ii) its own attorney's fees.

D. **Other Expenses.** The Purchaser's Title Policy, the recording costs for the Deed, any transfer fees and estoppel fees imposed by any homeowners' association, transfer taxes, documentary stamps and any other expenses, shall be paid by Purchaser or Seller, as applicable, in accordance with the cost allocations set forth on Exhibit I hereto.

E. **Prorations.**

(i) Non-Rent. Assessments (including homeowners' association assessments, municipal utility district charges and the like), current taxes and maintenance fees for the month of Closing or other applicable period will be prorated as of the Closing Date. Seller shall pay all such expenses attributable to periods prior to the Closing Date and Purchaser shall pay all expenses attributable to all periods from and after the Closing Date. If ad valorem taxes for the year in which the sale is closed are not available on the Closing Date, proration of taxes will be made on the basis of taxes assessed in the previous year and the parties shall re-prorate within thirty (30) days following receipt of the actual final tax bill. With respect to special assessments, Seller shall pay all installments of special assessments due and payable in respect of the applicable Properties for all periods prior to the Closing Date, and Purchaser shall pay all installments of special assessments in respect of the applicable Properties due and payable on and after the Closing Date; provided, however, that if any such special assessments shall be payable in one installment but relate to improvements which have a useful life for periods of time including the periods of ownership of Seller and Purchaser, the parties agree to prorate such special assessments equitably according to the parties' respective periods of ownership. If any other charges, expenses, and income are unavailable at the Closing Date, then a readjustment of these items shall be made by Purchaser and delivered to Seller (a "Reconciliation Notice") promptly after such items are determined but in any event within one hundred twenty (120) days of the Closing Date, and, if requested by the applicable Seller, along with copies of supporting documents, to the extent reasonably available to Purchaser, including applicable invoices, receipts, and other evidence of such charges. Within thirty (30) days after the receipt of the Reconciliation Notice, Seller shall either approve the Reconciliation Notice (and thereafter within thirty (30) days the underpaying party shall pay the overpaying party) or disapprove. If Seller disapproves the Reconciliation Notice, Purchaser and Seller shall cooperate in good faith to resolve the dispute. In the event the parties cannot agree, then either party may elect to have the dispute resolved by binding arbitration conducted pursuant to the rules of the American Arbitration Association. Upon final resolution either by agreement of the parties or by the arbitrator, the underpaying party shall pay the overpaying party within thirty (30) days.

(ii) Renovation Costs. Seller shall be responsible for the payment of any repair or renovation costs Seller elects to perform on the Property prior to the Closing Date (provided however, Seller shall have no obligation to undertake any renovation of the Property prior to Closing). Purchaser shall be responsible for the payment of all costs and expenses incurred in connection with the operation and ownership of the Property including, without limitation, any repair or renovation costs performed on the Property on or after the Closing Date, provided however, that for any Property where the tenant vacates the Property within 6 months of the Closing Date and the aggregate cost of repair, maintenance, renovation and capital expenses associated

with the turnover of such Property is necessary to return such Property to good repair consistent with the Renovation Standards exceeds \$5,000, Seller shall reimburse the Purchaser from available funds in the related Seller Indemnity Escrow for the aggregate cost of all such repair, maintenance, renovation and capital expenses less \$2,500.00; provided, however, if a tenant vacates a Property within 6 months of the Closing Date, funds reasonably related to such repairs on the related Property will be retained in the applicable Seller Indemnity Escrow until the repairs have been completed. For purposes of illustration only, in the event Purchaser's actual reasonable out of pocket costs for repair of an individual Property upon the vacating of such individual Property by the tenant in occupancy on the Closing Date is in the amount of \$6,000, Purchaser shall only be entitled to reimbursement from the applicable Seller Indemnity Escrow in the amount of \$3,500. On and after the Effective Date to the Closing Date, Seller shall not commence any repair to, or renovation of, any Property with an expected cost in excess of \$5,000.00 without the prior written approval of Purchaser.

"Renovation Standards" means the maintenance, repairs, improvements and installations that (i) are necessary for a Property to conform to applicable material legal requirements and (ii) do not deviate materially from local rental market standards for the area in which such Property is located.

(iii) Leasing Costs. Seller shall be solely responsible for the payment of all usual and customary third party finder's fees, commissions and apartment locater fees with respect to Leases executed after the Effective Date and prior to the Closing.

(iv) Rent. Seller shall be entitled to all of the rents and all other reimbursements, charges and amounts payable to the landlord under the Leases (collectively, "Rents") applicable to periods prior to and through 11:59 p.m. on the date immediately prior to the Closing Date (the "Proration Date"), and Purchaser shall be entitled to all Rents applicable to periods thereafter. Rents prepaid to Seller, and actually collected by Seller, for the month in which the Closing Date occurs shall be prorated between Purchaser and Seller on the Proration Date on the basis of the number of days in the particular month, and Purchaser shall receive a credit against the Purchase Price in an amount equal to Purchaser's pro rata share thereof. Any Rents not collected as of the Closing Date shall not be prorated at the time of Closing. Rents received by Purchaser after the Closing Date shall be applied first to any costs of collection, then to such tenant's current Rents, and then to such tenant's Rents for the months preceding such month in reverse chronological order, including the delivery of any prorated amount due to Seller based upon the method of proration described above. With respect to any delinquent rentals, Purchaser will make a reasonable attempt (but shall not be obligated) for a period of ninety (90) days following the Closing Date to collect the same for Seller's benefit after the Closing in the ordinary course

of the operation of the Property and such collection, if any, will be remitted (net of reasonable collection costs) to Seller within thirty (30) days after receipt by Purchaser. Nothing contained herein shall require Purchaser to institute any lawsuit or other collection procedure to collect such delinquent rentals. If, subsequent to the Closing, any such Rents and other income allocable to the period after the Proration Date are actually received by Seller following the Closing Date, Seller shall remit the same (or pro rata share thereof) to Purchaser within thirty (30) days after receipt (net of reasonable collection costs). Seller shall have the right, before the Closing Date, to take such action as it deems appropriate to recover any unpaid Rents for periods prior to the Closing Date, provided that Seller shall not be permitted to institute any legal proceedings for the collection of such amounts after the Closing Date, and provided, further, that Purchaser shall incur no cost, liability or expense in connection therewith, and in no event shall Seller be permitted to enforce other legal or equitable remedies specifically including commencing eviction or dispossessory procedures or to terminate any Leases.

(v) Security Deposits and Other Deposits. At Closing, Purchaser shall receive a credit against the Purchase Price in the amount of any security or other refundable deposits actually paid to or received by Seller under the Leases (and not as of the Closing Date returned to or forfeited by tenants under Leases to the extent permitted or required by such Lease) and any prepaid rentals actually paid to or received by Seller for periods subsequent to the Closing. The foregoing provisions of this paragraph shall survive the Closing and delivery of the Deeds.

(vi) Closing Date Treatment; Property Manager Fees and Expenses. In making the prorations required by this Section 6(E), the economic burdens and benefits of ownership of the Property for the Closing Date shall be allocated to Purchaser. All fees and expenses accrued and/or due to any Property Manager as of the Closing Date shall be paid in full by the Seller not later than the Closing Date and receipts therefore shall be delivered to the Purchaser.

(vii) Survival. The provisions of this Section 6(E) shall survive the Closing.

7. DELIVERIES AT CLOSING

A. **Seller's Deliveries at Closing**. At Closing each Seller Entity shall deliver to, and Purchaser's obligations hereunder shall be subject to receipt by, Escrow Agent of each of the following for recordation, filing or delivery to Purchaser, as applicable, upon Closing, the following with respect to Properties owned by such Seller:

(i) a special or limited warranty deed (or local equivalent) with respect to each Property, in the form customarily used in each market (each, a "Deed") duly executed and acknowledged by the Seller Entity owning such Property, subject to the Permitted

Exceptions. Purchaser and Seller agree that a Deed may describe multiple Properties owned by the related Seller Entity if multiple Properties being conveyed are located in the same county and are being conveyed by the same Seller Entity;

(ii) a Bill of Sale and General Assignment, in the form attached hereto as **Exhibit C** (the “Bill of Sale”) duly executed by each Seller Entity for the conveyance of the personal property owned by such Seller Entity in the Property, if any;

(iii) an Assignment and Assumption of Leases, in the form attached hereto as **Exhibit D** (the “Assignment of Leases”) duly executed by each Seller Entity with respect to the Leases affecting the Properties owned by such Seller Entity;

(iv) a notice to all tenants of the Property in the form attached hereto as **Exhibit E** (“Tenant Notice Letter”) duly executed by Seller;

(v) possession of the Property, subject to the rights of any tenants under any Leases;

(vi) a “non-foreign” certificate in the form attached hereto as **Exhibit F** (the “Non-Foreign Affidavit”) duly executed by Seller (or a certificate of disregarded entity, as applicable);

(vii) a settlement statement (the “Settlement Statement”), duly executed by Seller;

(viii) such other evidence of the authority and capacity of each Seller Entity and its representatives as the Title Company may reasonably require;

(ix) any additional instruments, duly executed and appropriately acknowledged by Seller, as may be necessary for Seller to have complied with the terms of this Agreement;

(x) the Property Management Services Agreement, dated as of the Effective Date, by and between Conrex Property Manager and the Purchaser, attached hereto as **Exhibit H** (the “Property Management Agreement”) executed by Conrex Property Manager, and terminations, effective as of the Closing Date, of all property management agreements with the other Property Managers, together with receipts or other written evidence satisfactory to Purchaser that all fees and expenses accrued and/or due to the Property Managers as of the Closing Date have been paid in full by the Seller; and

(xi) a customary title affidavit from each Seller Entity in form and substance acceptable to the Title Company to issue each standard form Purchaser’s Title Policy.

B. **Purchaser's Deliveries at Closing.** At Closing Purchaser shall deliver to, and Seller's obligations hereunder shall be subject to receipt by, Escrow Agent of each of the following for recordation, filing or delivery to the applicable Seller Entity, as applicable, upon Closing, the following:

- (i) the Purchase Price;
- (ii) the Assignment of Leases, duly executed by Purchaser;
- (iii) the Settlement Statement, duly executed by Purchaser;
- (iv) the Property Management Agreement, duly executed by Purchaser;
- (v) such other evidence of the authority and capacity of Purchaser and its representatives as the Title Company may reasonably require;
- (vi) any documents required to be executed or otherwise delivered by Purchaser pursuant to applicable law; and
- (vii) any additional instruments, duly executed and appropriately acknowledged by Purchaser, as may be necessary for Purchaser to have complied with the terms of this Agreement.

8. DEFAULT AND REMEDIES

A. **Default by Seller.** If a Seller Entity fails to perform any of its obligations under this Agreement, and if Purchaser is not then in default, Purchaser shall notify such Seller Entity (with a copy to the non-defaulting Seller Entity) in writing of the nature of and occurrence of the event of default and such Seller Entity shall have seven (7) business days to cure such event of default (provided however that if the default is a failure to close on the Closing Date, then no cure rights shall exist and this Agreement shall terminate and the Earnest Money shall be returned to Purchaser). If such Seller Entity fails or refuses to cure such event of default, Purchaser, at Purchaser's sole option, may either: (a) terminate this Agreement by delivering written notice to each Seller Entity and receive a full refund of the Earnest Money, or (b) seek the remedy of specific performance. Notwithstanding the foregoing, if specific performance is not available and such event of default is due to fraud, willful misconduct or bad faith of Seller, Purchaser shall be entitled to all rights and remedies available at law or in equity, including without limitation, the right to recover all damages which Purchaser may suffer as a result of such breach. Except as set forth in Section 5.E. hereof, nothing contained in this Agreement shall limit or otherwise affect any of Purchaser's rights or remedies against Seller arising under any express indemnification of Purchaser by Seller set forth in this Agreement or arising from any breach or default by Seller after the Closing of any obligations in this Agreement which are expressly provided to survive Closing.

B. **Default by Purchaser.** If Purchaser fails to perform any of its material obligations under this Agreement or the Access Agreement, and if Seller is not then in monetary default under this Agreement, Seller shall notify Purchaser in writing of the nature of and occurrence of the event of default and Purchaser shall have seven (7) days to cure such event of default. If Purchaser fails or refuses to timely cure such event of default, Seller shall have the right to terminate this Agreement and all Earnest Money deposited in Escrow by Purchaser shall be disbursed to Seller as its sole and exclusive remedy, as liquidated damages and not as a penalty and the parties shall have no further rights or obligations under this Agreement. Purchaser and Seller agree that the damage which Seller would reasonably be expected to sustain is the amount of the Earnest Money. Purchaser and Seller acknowledge and agree that it would be impracticable to ascertain the actual damages that would be suffered by Seller in such event. Purchaser and Seller have considered carefully the loss to Seller as a consequence of the negotiation and execution of this Agreement, the personal expense of Seller incurred in connection with the preparation of this Agreement and Seller's performance hereunder, and the other damages, general and special, that Purchaser and Seller realize and recognize Seller will sustain but that Seller cannot at this time calculate with absolute certainty. Based on all of these considerations, Purchaser and Seller have agreed that the damage to Seller would reasonably be expected to amount to the Earnest Money as full, complete and final liquidated damages sustained by Seller and such liquidated damages shall be Seller's sole and exclusive remedy and the parties shall have no further rights or obligations under this Agreement. If the Closing occurs, nothing contained in this Agreement shall limit or otherwise affect any of Seller's rights or remedies against Purchaser arising under any express indemnification of Seller by Purchaser set forth in this Agreement or arising from any breach or default by Purchaser after the Closing of any obligations in this Agreement which are expressly provided to survive Closing.

C. **Attorney's Fees.** Notwithstanding any limitation of remedies described above, if it shall be necessary for either Purchaser or Seller to commence litigation to enforce its rights pursuant to this Agreement because of the default of the other party, the prevailing party shall reimburse the non-prevailing party for its reasonable attorneys' fees and costs.

9. SELLER'S COVENANTS

A. **Seller Covenants.** From the Effective Date until the Closing (or the earlier termination of this Agreement), Seller shall, or shall cause its agents or affiliates to:

- (i) operate and maintain the Property in substantially the same manner as it has heretofore operated and maintained the same;
- (ii) use commercially reasonable efforts consistent with past practice, to keep each of the Properties free from damage, maintain each of the Properties in good physical condition and not permit waste to occur with respect any of the Properties;

- (iii) continue in the ordinary course of business to timely pay all bills and other payments due prior to the Closing with respect to the operation of the Property, subject to proration as set forth in Section 6 of this Agreement;
- (iv) maintain its current insurance policies (or comparable substitutions thereof) in full force and effect through the Closing except for any modifications in the ordinary course of Seller's or Property Managers' business, which modifications are consistent with their past practice;
- (v) perform, when due, all material obligations under any and all agreements relating to the Property and otherwise in accordance with applicable laws, ordinances, rules, and regulations;
- (vi) not intentionally take any action which causes any of the representations or warranties in this Agreement to become untrue or be violated; and
- (vii) not take any action that would reasonably be expected to have a material adverse effect on a Property.

B. **Leases.** Prior to the Closing Date Seller may not enter into any lease agreement for a Property for a rental amount less than the amount of rent being paid for such Property at the Effective Date of this Agreement without Purchaser's prior consent and approval, which may be withheld in Purchaser's reasonable discretion. Any new lease signed between the Effective Date and the Closing shall satisfy the requirements of an Eligible Lease (as defined below). Seller shall pay all brokerage commissions and finders' fees applicable to all Leases in effect as of the date of this Agreement and any commissions and finders' fees, to the extent consistent with such commissions and fees paid by Seller prior to the Effective Date, with respect to any new Leases entered into after the Effective Date shall be paid by Purchaser.

For purposes of this Agreement, "Eligible Lease" shall mean a Lease for a Property that satisfies all of the following:

- (i) the form of Lease reflects customary market standard terms;
- (ii) the Lease is entered into on an arms-length basis without payment support by any Seller Entity or its partners, representatives, employees, agents or affiliates (provided, that any incentives offered to tenants shall not be deemed to constitute such payment support);
- (iii) the Lease is to a bona fide third-party tenant;
- (iv) the Lease is in compliance with all applicable laws, ordinances, rules, and regulations in all material respects;
- (v) the Lease is consistent with Conrex Property Manager's internal leasing guidelines.

and

10. MISCELLANEOUS

A. Condemnation.

(i) If before the Closing, condemnation proceedings are commenced against a Material Portion (hereinafter defined) of any individual Property, Purchaser may exclude such affected Property by providing written notice to Seller within five (5) days after Purchaser is advised of the condemnation proceedings and the Purchase Price will be reduced in the manner described in Section 10(B), below.

(ii) In the event less than a Material Portion of any individual Property is condemned, Purchaser shall have no right to exclude such affected Property, but shall be entitled to (and Seller shall irrevocably assign to Purchaser at the Closing) all of Seller's right, title and interest in and to any awards and proceeds of the taking, and Purchaser shall receive a credit, at Closing, for all awards and proceeds previously actually received by Seller, after the reasonable, out-of-pocket costs and expenses of collection are deducted therefrom, but there shall be no adjustment to the Purchase Price. If Purchaser fails to provide the notice electing to exclude the subject portion of the Property, then Purchaser shall be deemed to have elected to exclude the subject portion of the Property as described in Section 10(A)(i).

For purposes of this Section 10(A), "Material Portion" shall mean, for any individual Property, a portion which (i) reduces the value of such Property (such value to be the Allocated Purchase Price set forth on Exhibit A-1 or Exhibit A-2, as applicable, hereto for such individual Property) by ten percent (10%) or more, or (ii) prohibits or materially and adversely restricts the leasing of such Property as a single family home.

B. **Damage or Destruction.** If any of the Properties is Materially Damaged (as hereinafter defined) by a casualty prior to a Closing, Seller shall give Purchaser prompt written notice thereof, and on or before the earlier of five (5) business days after receipt of written notice or the Closing Date, Purchaser may elect to exclude said Materially Damaged Property from the transaction contemplated by this Agreement and the Purchase Price shall be reduced by an amount that is equal to the Allocated Purchase Price of such Materially Damaged Property. If a casualty does not result in the applicable Property being Materially Damaged, Purchaser shall have no right to exclude such Property from the transaction, but shall be entitled to retain any Materially Damaged Property as part of the Properties being acquired, the Purchase Price shall not be reduced and Seller shall assign to Purchaser all rights of Seller in and to any insurance proceeds payable thereafter with respect to such Materially Damaged Property and shall receive a credit against the Purchase Price in an amount of any deductible related to the insurance for such damaged Property. If a casualty results in the applicable Property being Materially Damaged and Purchaser fails to provide Seller with notice of exclusion of such Property, then such Property shall be excluded from the transaction and the Purchase Price shall be reduced by an amount that is equal to the Allocated Purchase Price of such Materially Damaged Property. Upon a casualty, a Property shall be

D. **Time is of the Essence.** Time is of the essence of this contract. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day. Unless otherwise specified in this Agreement, any reference to “days” shall mean “calendar days”.

E. **Counterpart Execution.** This Agreement may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. Signatures to this Agreement transmitted by facsimile or PDF shall be valid and effective to bind the party so signing.

F. **Effective Date.** The Effective Date of this Agreement shall be the date that this Agreement is last signed by all of the parties hereto.

G. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the law of the State of New York, without giving effect to any conflict of laws principles other than those contained in Section 5-1401 and Section 5-1402 of the General Obligations Law of the State of New York.

H. **Integration; Modification; Waiver.** This Agreement, together with the Access Agreement, constitutes the complete and final expression of the agreement of the parties relating to the Property, and supersedes all previous contracts, agreements, and understandings of the parties, either oral or written, relating to the Property. This Agreement cannot be modified, or any of the terms hereof waived, except by an instrument in writing (referring specifically to this Agreement) executed by the party against whom enforcement of the modification or waiver is sought.

I. **Headings; Construction.** The headings which have been used throughout this Agreement have been inserted for convenience of reference only and do not constitute matter to be construed in interpreting this Agreement. Words of any gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. The words “herein,” “hereof,” “hereunder” and other similar compounds of the words “here” when used in this Agreement shall refer to the entire Agreement and not to any particular provision or section. Seller and Purchaser acknowledge that each party and its counsel have taken the opportunity to review and revise this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

J. **Invalid Provisions.** If any one or more of the provisions of this Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid

and enforceable, and the validity and enforceability of all other provisions of this Agreement and all other applications of any such provision shall not be affected thereby.

K. **Binding Effect; Successors and Assignment.** This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser, and their respective heirs, personal representatives, successors and assigns, provided, however, that neither party hereto shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. Furthermore, any permitted assignee of Purchaser hereunder shall re-affirm the representations, warranties and indemnifications set forth in Section 5 of this Agreement.

L. **No Lien.** This Agreement is not and shall not be deemed or considered to convey or be an interest in or lien against the Property.

M. **No Recording.** In no event shall this Agreement or any memorandum or affidavit hereof be recorded by Purchaser in any public records. Any such recordation or attempted recordation shall constitute a breach of this Agreement by Purchaser, and, in addition to the other remedies provided for herein, Seller shall have the express right to terminate this Agreement by filing a notice of said termination in the real estate records of the jurisdiction where each Property is located.

N. **Exhibits.** All references to Exhibits contained herein are references to Exhibits attached hereto, all of which are made a part hereof for all purposes the same as if set forth herein verbatim, it being expressly understood that if any Exhibit attached hereto which is to be executed and delivered at Closing contains blanks, the same shall be completed correctly and in accordance with the terms and provisions contained herein and as contemplated herein prior to or at the time of execution and delivery thereof.

O. **Brokers.** All negotiations relative to this Agreement and the purchase and sale of the Property as contemplated by and provided for in this Agreement have been conducted by and between Seller and Purchaser without the intervention of any person or other party as agent or broker, other than as disclosed in the Letter of Intent between Seller and Purchaser, dated as of June 26, 2018 (the "Letter of Intent"). Seller and Purchaser shall and do each hereby indemnify, defend and hold harmless each other from and against the claims, demands, actions and judgments (including reasonable attorneys' fees) of any and all brokers, agents and other intermediaries alleging a commission, fee or other payment to be owing by reason of their respective dealings, negotiations or communications in connection with this Agreement or the purchase and sale of the Property.

P. **Waiver of Jury Trial.** Purchaser, Seller and Escrow Agent hereby unconditionally and irrevocably waive, to the fullest extent permitted by law, the right to trial by jury in any action, proceeding or counterclaim, whether in contract, tort or otherwise, relating directly or indirectly to this Agreement.

Q. **Confidentiality.** Each of the parties hereto agrees that it will not use, or permit the use of, any of the information relating to Seller or the Property, or Purchaser respectively furnished to each other in connection with the Letter of Intent, this Agreement or the Contemplated Transaction (as defined in the Letter of Intent) (collectively, the “Confidential Information”), except publicly available information. None of the parties hereto will, and neither will Seller’s directors, officers, employees, agents, affiliates, members, managers, partners, shareholders and other representatives, disclose, divulge, provide or make accessible any of the Confidential Information to any person or entity, other than their responsible officers, employees, advisors or attorneys that need to know or otherwise as required by law or regulation. The provisions of this Section 10(R) and the following Section 10(S) are in addition to, and shall not supersede, and shall be subject to the Confidentiality Agreement, dated as of April 18, 2018, between Angelo, Gordon Management LLC and Seller (the “Confidentiality Agreement”).

R. **Disclosure.** Without the prior written consent of the other party hereto, neither party hereto will, and each party hereto will cause its directors, officers, employees, agents, other representatives, members, managers, partners and affiliates not to, disclose to any person the fact that discussions or negotiations are taking place concerning the Letter of Intent, this Agreement or the Contemplated Transactions, the status thereof, or the existence of this Agreement and the terms hereof, unless in the opinion of such party disclosure is required to be made by applicable law, regulation or court order, and such disclosure is made after prior consultation with the other party. Neither party will issue any public announcement concerning the Contemplated Transaction without the approval of the other party, except as may be required by law.

11952194.14

[SIGNATURES COMMENCE ON FOLLOW PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

“SELLER”:

CONREX RESIDENTIAL PROPERTY GROUP 2012-2, LLC, a South Carolina limited liability company

By: /s/ Garrett Daniel

Name: Garrett Daniel

Title: Authorized Signatory and Liquidator

Date of Execution: 8/31/2018

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

[SELLER'S SIGNATURES CONTINUED FROM THE PRECEDING PAGE]

**CONREX RESIDENTIAL PROPERTY GROUP 2012-2 (B2R-1)
OPERATING COMPANY, LLC**, a Delaware limited liability company

By: /s/ Garrett Daniel
Name: Garrett Daniel
Title: Authorized Signatory and Liquidator

Date of Execution: 8/31/2018

**CONREX RESIDENTIAL PROPERTY GROUP 2012-2 (B2R-2) OPERATING
COMPANY, LLC**, a Delaware limited liability company

By: /s/ Garrett Daniel
Name: Garrett Daniel
Title: Authorized Signatory and Liquidator

Date of Execution: 8/31/2018

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

[SELLER'S SIGNATURES CONTINUED FROM THE PRECEDING PAGE]

OVATION PROPERTIES, LLC, a Texas limited liability company

By: /s/ Joel G. Katz

Name: Joel G. Katz

Title: Authorized Signatory

Date of Execution: 8/31/2018

“PURCHASER”:

SFR MT LLC, a Delaware limited liability company

By: /s/ Raul E. Moreno

Name: Raul E. Moreno

Title: Secretary

Date of Execution: 8/31/2018

LOAN AGREEMENT

Dated as of September 10, 2018

by and between

SFR MT LLC,
as Borrower,

and

METROPOLITAN LIFE INSURANCE COMPANY,
as Lender

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- Exhibit G-3 - Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)
- Exhibit G-4 - Form of U.S. Tax Compliance Certificate (For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Property or portfolio of Affected Properties pursuant to **Section 2.4.2(a)**, then the Allocated Loan Amount of such Substitute Property shall be the Allocated Loan Amount of such Affected Property (or the aggregate Allocated Loan Amounts of such Affected Properties) immediately prior to its (or their) substitution, and (ii) if two (2) or more Substitute Properties are substituted for an Affected Property or portfolio of Affected Properties pursuant to **Section 2.4.2(a)**, then the Allocated Loan Amount of each such Substitute Property shall be a *pro rata* portion of the Allocated Loan Amount of such Affected Property (or the aggregate Allocated Loan Amounts of such Affected Properties) immediately prior to its (or their) substitution, with such *pro rata* portion determined based on the BPO Values of the Substitute Properties. For the avoidance of doubt, in connection with calculating the payments contemplated by this Agreement, Lender will determine the Allocated Loan Amount for any individual Property as of the date Lender received notice of the prepayment from Borrower.

“**ALTA**” means American Land Title Association, or any successor thereto.

“**Ancillary Collateral**” means the Collateral under the Equity Owner Security Agreement, the Assignment of Management Agreement and the Collateral (other than to the extent related to the Properties) under the Borrower Security Agreement.

“**Annual Budget**” means the operating budget, including all planned Capital Expenditures, for the Properties prepared by Borrower in accordance with **Section 4.3.2** for the applicable calendar year, prepared on a month-by-month basis.

“**Anti-Money Laundering Laws**” has the meaning set forth in **Section 4.1.19**.

“**Approved Annual Budget**” has the meaning set forth in **Section 4.3.2**.

“**Approved Capital Expenditures**” means Capital Expenditures incurred by Borrower and either (i) if no Cash Sweep Period is continuing, included in the Annual Budget or, if during a Cash Sweep Period, in an Approved Annual Budget or (ii) approved by Lender, which approval shall not be unreasonably withheld, conditioned or delayed. For the avoidance of doubt, any budgeted Capital Expenditure amount for a calendar month may be carried forward if unused in such calendar month; **provided, however**, no such unused amount may be carried over from the last calendar month of any Approved Annual Budget to the first calendar month of the next Approved Annual Budget.

“**Approved Extraordinary Expense**” has the meaning set forth in **Section 6.6.4**.

“**Assignment of Management Agreement**” means an Assignment of Management Agreement and Subordination of Management Fees among Lender, Borrower and Manager, substantially in the form delivered on the Closing Date by Borrower, Existing Manager and Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Available Cash**” has the meaning set forth in **Section 2.7.2(k)**.

“**Award**” means any compensation paid by any Governmental Authority in connection with a Condemnation.

“**Bankruptcy Action**” means, with respect to any Person:

(i) such Person shall fail generally to pay its debts as they come due, or shall make a general assignment for the benefit of creditors; or any case or other proceeding shall be instituted by such Person seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, reorganization, debt arrangement, dissolution, winding up, or composition or readjustment of debts of it or its debts under the Bankruptcy Code; or such Person shall take any corporate, limited partnership or limited liability company action to authorize any of such actions; or

(ii) a case or other proceeding shall be commenced, without the application or consent of such Person in any court seeking the liquidation, reorganization, debt arrangement, dissolution, winding up, or composition or readjustment of debts of such Person, the appointment of a trustee, receiver, custodian, liquidator, assignee,

sequestrator or the like for such Person or all or substantially all of its assets, or any similar action with respect to such Person under the Bankruptcy Code, and (A) such case or proceeding shall continue undismissed, or unstayed and in effect, for a period of sixty (60) consecutive days or (B) an order for relief in respect of such Person shall be entered in such case or proceeding or a decree or order granting such other requested relief shall be entered.

“**Bankruptcy Code**” means Title 11 of the United States Code, 11 U.S.C. §101, *et seq.*, as the same may be amended from time to time, and any successor statute or statutes and all rules and regulations from time to time promulgated thereunder, and any comparable foreign laws relating to bankruptcy, insolvency or creditors’ rights or any other Federal, state, local or foreign bankruptcy or insolvency law.

“**Blocked Account Control Agreement**” means the Cash Management Agreement among Borrower, Cash Management Account Bank and Lender providing for the exclusive control of the Cash Management Account and all other Subaccounts by Lender, substantially in the form of **Exhibit A** or such other form as may be reasonably acceptable to Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Borrower**” has the meaning set forth in the introductory paragraph hereto, together with its successors and permitted assigns.

“**Borrower Security Agreement**” means that certain Security Agreement, dated as of the Closing Date, executed by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Borrower’s Operating Account**” has the meaning set forth in **Section 4.1.15**.

“**BPO Value**” means, with respect to any Property, the “as is” value for such Property set forth in a Broker Price Opinion obtained by Lender with respect to a Property.

“**Broker Price Opinion**” means a broker price opinion obtained by Lender.

“**Business Day**” means any day other than a Saturday, Sunday or any other day on which national banks in New York, New York or the place of business of any Servicer or the financial institution that maintains any collection account for or on behalf of any Servicer or any Reserve Funds or the Federal Reserve Bank of New York are not open for business.

“**Calculation Date**” means the last day of each calendar quarter during the Term, commencing with the calendar quarter ended December 31, 2018.

“**Capital Expenditure Funds**” has the meaning set forth in **Section 6.3.1**.

“**Capital Expenditure Subaccount**” has the meaning set forth in **Section 6.3.1**.

“**Capital Expenditures**” means, for any period, the amount expended for items capitalized under GAAP (including expenditures for building improvements, major repairs, and leasing commissions).

“**Carry-Over Property**” means, as of any date of determination, a Property that is occupied by a Carry-Over Tenant at such date of determination.

“**Carry-Over Tenant**” means, as of any date of determination, one or more individuals who, at the time of acquisition of a Property by Borrower, occupied such Property.

“**Cash Collateral Floor**” has the meaning set forth in **Section 6.6.2**.

“**Cash Collateral Funds**” has the meaning set forth in **Section 6.6.1**.

“**Cash Collateral Subaccount**” has the meaning set forth in **Section 6.6.1**.

“**Cash Management Account**” has the meaning set forth in **Section 2.7.1(a)**.

“**Cash Management Account Bank**” means the Eligible Institution selected by Lender to maintain the Cash Management Account.

“**Cash Sweep Period**” shall commence upon the occurrence of (i) an Event of Default, (ii) the commencement of a Low DSCR Period, or (iii) the Parent Financial Test is not satisfied; and shall end if, (A) with respect to a Cash Sweep Period continuing pursuant to **clause (i)**, the Event of Default commencing the Cash Sweep Period has been cured and such cure has been accepted by Lender (and no other Event of Default is then continuing) or, (B) with respect to a Cash Sweep Period continuing due to **clause (ii)**, the Low DSCR Period has ended pursuant to the terms hereof, or (C) with respect to a Cash Sweep Period continuing due to **clause (iii)**, the Parent Financial Test is satisfied.

“**Casualty**” has the meaning set forth in **Section 5.2**.

“**Casualty and Condemnation Funds**” has the meaning set forth in **Section 6.4**.

“**Casualty and Condemnation Subaccount**” has the meaning set forth in **Section 6.4**.

“**Casualty Consultant**” has the meaning set forth in **Section 5.4(d)(iii)**.

“**Casualty Retainage**” has the meaning set forth in **Section 5.4(d)(iv)**.

“**Casualty Threshold Amount**” means, with respect to all Casualties arising from any single Casualty event, an amount equal to two percent (2%) of the Outstanding Principal Balance as of the date of such Casualty Event.

“**Closing Date**” means the date of the funding of the Loan.

“**Closing Date Diligence Provider Certificate**” means a certificate from Diligence Provider in substantially the form of **Exhibit E** executed and delivered on the Closing Date without any material exceptions.

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

“**Collateral**” means, collectively, all of the real, personal and mixed property in which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

“**Collateral Assignment of Leases and Rents**” means a Collateral Assignment of Leases and Rents for each Property or for multiple Properties located within the same county or parish, dated as of the Closing Date (or, in connection with a Property which is a Substitute Property, dated as of the date of the substitution), executed and delivered by Borrower, constituting an assignment of the Lease or the Leases, as applicable, and the proceeds thereof as Collateral for the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time. The Collateral Assignment of Leases and Rents may be included as part of the Mortgage for such Property or Properties.

“**Collateral Documents**” means the Borrower Security Agreement, the Equity Owner Security Agreement, the Blocked Account Control Agreement, each Deposit Account Control Agreement, each Assignment of Management Agreement, each Mortgage Document and all other instruments, documents and agreements delivered by any Loan Party pursuant to this Agreement or any of the other Loan Documents in order to grant to Lender a Lien on any real, personal or mixed property of that Loan Party as security for the Obligations (to the extent required hereunder or under the Loan Documents to which such Loan Party is a party), as the same may be (and each of the foregoing defined terms shall refer to such documents as they may be) amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Collection Period**” means, the calendar month immediately preceding the related Payment Date; *provided, however*, the initial Collection Period shall be the period commencing on the Closing Date, and ending on and including the final day of such calendar month.

“**Collections**” means, without duplication, with respect to any Property, all Rents, Insurance Proceeds (whether or not Lender elects to treat any such Insurance Proceeds as business or rental interruption Insurance Proceeds pursuant to **Section 5.4(d)** but subject to the rights of Borrower to retain and/or apply any such Insurance Proceeds under **Article V**), Condemnation Proceeds (subject to the rights of Borrower to retain and/or apply any such Condemnation Proceeds under **Article V**), Net Transfer Proceeds, interest on amounts on deposit in the Cash Management Account and on the Reserve Funds, amounts paid by Borrower to the Cash Management Account pursuant to this Agreement, and all other payments received with respect to such Property and all “proceeds” (as defined in Section 9-102 of the UCC) of such Property. For the avoidance of doubt, Collections shall not include security deposits that have not been forfeited by the applicable Tenant.

“**Compliance Certificate**” means the certificate in the form attached hereto as **Exhibit B**.

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

“**Condemnation Proceeds**” has the meaning set forth in the definition of “Net Proceeds”.

“**Confidential Information**” has the meaning set forth in **Section 9.21**.

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

“**Contest Security**” means any security delivered to Lender by Borrower under **Section 4.1.3** or **Section 4.4.5**.

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

“**Cure Period**” means, with respect to the failure of any Property to qualify as an Eligible Property if such failure is reasonably susceptible of cure, except for a failure under **Section 3.2.20**, a period of thirty (30) days after the earlier of actual knowledge of such condition by a Responsible Officer of Borrower or notice thereof by Lender to Borrower; *provided* that, if Borrower is diligently pursuing such cure during such thirty (30) day period and such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, then such cure period shall be extended for another ninety (90) days so long as Borrower continues to diligently pursue such cure and, *provided, further*, that if the Obligations have been accelerated pursuant to **Section 7.1(b)**, then the cure period hereunder shall be reduced to zero (0) days. If any failure of any Property to qualify as an Eligible Property is not reasonably susceptible of cure, then no cure period shall be available. If any failure of any Property to qualify as an Eligible Property is due to a Voluntary Action, then no cure period shall be available.

“**Customer Information**” has the meaning set forth in **Section 9.21**.

“**Cut-Off Date**” means, for purposes of this Agreement, the Closing Date.

“**Damages**” to a Person means any and all liabilities, obligations, losses, demands, damages, penalties, assessments, actions, causes of action, judgments, proceedings, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including reasonable attorneys’ fees and other costs of defense and/or enforcement whether or not suit is brought), fines, charges, fees, settlement costs and disbursements imposed on, incurred by or

asserted against such party, whether based on any federal, state, local or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and environmental laws), on common law or equitable cause or on contract or otherwise; **provided, however**, that “Damages” shall not include special, consequential or punitive damages, except to the extent imposed upon Lender by one or more third parties.

“**Debt**” means the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all other sums (including, but not limited to, any Yield Maintenance Payment if applicable)] due to Lender in respect of the Loan under the Note, this Agreement, the Mortgage Documents, the Environmental Indemnity or any other Loan Document.

“**Debt Service**” means, with respect to any period of determination, the interest payments due under the Note for such period.

“**Debt Service Coverage Ratio**” means, as of any date of determination, a ratio in which:

(i) the numerator is the Underwritten Net Cash Flow calculated for the twelve (12) month period preceding such date of determination; and

(ii) the denominator is the aggregate debt service for the twelve (12) month period following such date of determination, calculated as the product of (1) the Outstanding Principal Balance as of such date and (2) the Interest Rate; **provided**, that for any date of determination prior to the first anniversary of the Closing Date, the amounts under items (i) and (ii) of this definition shall be measured from the Closing Date through the date of determination, divided by the number of days in such period, and multiplied by 365.

“**Debt Service Funds**” has the meaning set forth in **Section 6.1.4**.

“**Debt Service Subaccount**” has the meaning set forth in **Section 6.1.4**.

“**Default**” means the occurrence of any event hereunder or under any other Loan Document which, but for the giving of notice or passage of time, or both, would be an Event of Default.

“**Default Rate**” means a rate per annum equal to the lesser of (i) the Maximum Legal Rate or (ii) three percent (3%) above the Interest Rate.

“**Deposit Account Control Agreement**” means the Deposit Account Control Agreement dated the Closing Date among Borrower, Lender and a Rent Deposit Bank, providing for springing control by Lender, substantially in the form set forth as **Exhibit C** attached hereto or such other form as may be reasonably acceptable to Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Diligence Provider**” means Green River Capital, LLC, a Delaware limited liability company.

“**Disqualified Property**” means any Property that fails to constitute an Eligible Property (after the lapse of any applicable Cure Period).

“**Eligibility Funds**” has the meaning set forth in **Section 6.5.1**.

“**Eligibility Reserve Subaccount**” has the meaning set forth in **Section 6.5.1**.

“**Eligible Account**” means a separate and identifiable account from all other funds held by the holding institution that is an account or accounts (or subaccounts thereof) maintained with a federal or state-chartered depository institution or trust company which complies with the definition of Eligible Institution. An Eligible Account will not be evidenced by a certificate of deposit, passbook or other instrument.

“**Eligible Institution**” means:

(i) Wells Fargo Bank, National Association, so long as Wells Fargo Bank, National Association's long term unsecured debt or deposit rating shall be at least "A2" from Moody's and the equivalent by KBRA (if then rated by KBRA) (if the deposits are to be held in the applicable account for more than thirty (30) days) or Wells Fargo Bank, National Association's short term deposit or short term unsecured debt rating shall be at least "P-1" from Moody's and the equivalent by KBRA (if then rated by KBRA) (if the deposits are to be held in the applicable account for thirty (30) days or less); or

(ii) a depository institution or trust company insured by the Federal Deposit Insurance Corporation the short term unsecured debt obligations or commercial paper of which are rated at least A-1 by S&P, P-1 by Moody's, and F-1+ by Fitch in the case of accounts in which funds are held for thirty (30) days or less or, in the case of letters of credit or accounts in which funds are held for more than thirty (30) days, the long term unsecured debt obligations of which are rated at least (A) "AA" by S&P, (B) "AA" and/or "F1+" (for securities) and/or "AAAmf" (for money market funds), by Fitch and (C) "Aa2" by Moody's;

provided that, Wells Fargo Bank, National Association shall be an Eligible Institution (x) with respect to Rent Deposit Accounts and Security Deposit Accounts only, so long as Wells Fargo Bank, National Association's short term unsecured debt or deposit rating shall be at least "P-1" from Moody's and the equivalent by KBRA (if then rated by KBRA) and (y) with respect to Borrower's Operating Account.

"Eligible Lease" means, as of any date of determination, a Lease for a Property that satisfies all of the following:

(i) the form of Lease reflects customary market standard terms;

(ii) the Lease is entered into on an arms-length basis without payment support by any Borrower or its Affiliates (**provided**, that any incentives offered to Tenants shall not be deemed to constitute such payment support);

(iii) the Lease is to a bona fide third-party Tenant;

(iv) the Lease is in compliance with all applicable Legal Requirements in all material respects; and

(v) the Lease is consistent with the Manager's internal leasing guidelines.

"Eligible Property" means, as of any date of determination, a Property that is in compliance with each of the Property Representations and each of the Property Covenants; **provided**, that for purposes of determining whether a Property is in compliance with the representation in the last sentence of **Section 3.2.8** or the last sentence of **Section 3.2.15**, such sentence shall be read as if it was not qualified by Borrower's knowledge.

"Eligible Tenant" means, as of any date of determination, a bona fide third party lessee of a Property who satisfies each of the following criteria:

(i) the Tenant is not subject to an ongoing Bankruptcy Action as of the date such Tenant is initially screened by Borrower prior to the execution of a Lease by such Tenant;

(ii) at the time of such initial screening, the Tenant is not listed on any Government List; and

(iii) the Tenant otherwise generally conforms to Borrower's internal tenant leasing criteria in all material respects at the time such Tenant is screened by Borrower.

"Embargoed Person" has the meaning set forth in **Section 4.2.16**.

“Environmental Indemnity” means that certain Environmental Indemnity Agreement, dated as of the Closing Date, executed by Borrower in connection with the Loan for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Equity Interests” means, with respect to any Person, shares of capital stock, partnership interests, membership interests, beneficial interests or other equity ownership interests in such Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest from such Person.

“Equity Owner” means SFR MT Holdings LLC, a Delaware limited liability company.

“Equity Owner Guaranty” means that certain Equity Owner Guaranty, dated as of the Closing Date, executed by Equity Owner in favor of Lender in respect of this Agreement, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Equity Owner Security Agreement” means that certain Equity Owner Security Agreement, dated as of the Closing Date, executed by Equity Owner in favor of Lender in respect of this Agreement, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Equity Owner’s Permitted Indebtedness” has the meaning set forth in **Section 4.2.2**.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor statute.

“ERISA Affiliate” means any corporation or trade or business that is a member of any group of organizations (i) described in Section 414(b) or (c) of the Code of which another entity is a member or (ii) described in Section 414(m) or (o) of the Code of which another entity is a member, except that this clause (ii) shall apply solely for purposes of potential liability under Section 302(b) of ERISA and Section 412(b) of the Code and the lien created under Section 303(k) of ERISA and Section 430(k) of the Code.

“ERISA Event” means (i) the failure to pay a minimum required contribution or installment to a Plan on or before the due date provided under Section 430 of the Code or Section 303 of ERISA, (ii) the filing of an application with respect to a Plan for a waiver of the minimum funding standard under Section 412(c) of the Code or Section 302(c) of ERISA, (iii) the failure of a Loan Party or any of its ERISA Affiliates to pay a required contribution or installment to a Multiemployer Plan on or before the applicable due date, (iv) any officer of any Loan Party or any of its ERISA Affiliates knows or has reason to know that a Plan is in “at risk” status within the meaning of Section 430(i) of the Code or Section 303(i) of ERISA or (v) the occurrence of a Plan Termination Event.

“ERISA Plan” has the meaning set forth in **Section 3.1.9(a)**.

“Event of Default” has the meaning set forth in **Section 7.1(a)**.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to Lender or required to be withheld or deducted from a payment to Lender, (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (A) imposed as a result of Lender being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (B) that are Other Connection Taxes, (ii) United States federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in the Loan pursuant to a law in effect on the date on which (A) such Lender acquires such interest in the Loan or (B) such Lender changes its lending office, except in each case to the extent that, pursuant to **Section 2.8**, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (iii) Taxes attributable

to such Lender's failure to comply with **Section 2.8(e)**, and (iv) any United States federal withholding Taxes imposed under FATCA.

"Existing Management Agreement" means that certain Property Management Services Agreement, dated as of the Closing Date, between Borrower and Existing Manager, pursuant to which Existing Manager provides management and other services with respect to the Properties, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Existing Manager" means Conrex Property Management, LLC, a Delaware limited liability company, and/or one or more other Qualified Managers.

"Extraordinary Expense" has the meaning set forth in **Section 6.6.4**.

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

"Fitch" means Fitch, Inc.

"Fixture Filing" means, with respect to any jurisdiction in which any Property or Properties are located in which a separate, stand-alone fixture filing is required or generally recorded or filed pursuant to the local law or custom (as reasonably determined by Lender), a Uniform Commercial Code financing statement (or other form of financing statement required in the jurisdiction in which the applicable Property or Properties are located) recorded or filed in the real estate records in which the applicable Property or Properties are located.

"Foreign Lender" means a Lender that is not a U.S. Person.

"Foreign Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA that (i) neither is subject to ERISA nor is a governmental plan within the meaning of Section 3(32) of ERISA and that is maintained, or contributed to, by a Loan Party or any of its ERISA Affiliates and (ii) is mandated by a government other than the United States (other than a state within the United States or an instrumentality thereof) for employees of a Loan Party or any of its ERISA Affiliates.

"Fully Condemned Property" has the meaning set forth in **Section 5.3(b)**.

"GAAP" means generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

"Government List" means (i) the Annex to EO13224, (ii) OFAC's most current list of "Specifically Designated National and Blocked Persons" (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treasury.gov/ofac/downloads/t11sdn.pdf> or any successor website or webpage) and (iii) any other list of terrorists, terrorist organizations or narcotics traffickers maintained by a Governmental Authority that Lender notifies Borrower in writing is now included in **"Government List"**.

"Governmental Authority" means any court, board, agency, commission, office or other authority of any nature whatsoever for any governmental unit (foreign, federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"GPR" means, as of any date of determination, the sum of (i) the annualized in place Rents under bona fide Eligible Leases for the Properties and/or Leases with Carry-Over Tenants as of such date and (ii) the annualized market rents for Properties that are vacant as of such date. For purposes of **clause (ii)** market rents shall be determined by Borrower, or using data provided by Manager or, if reasonably required by Lender, by RentRange or any other nationally recognized rental rate reporting service selected by Lender in its reasonable discretion (such nationally

recognized rental rate reporting service's fee to be at Borrower's sole cost and expense); **provided** that Borrower may object to any such determination by Manager, RentRange or other nationally recognized rental rate reporting service by delivering written notice to Lender within five (5) Business Days of any such determination and, in such event, the market rents so objected to shall be as determined by an independent broker opinion of market rent obtained by Lender at Borrower's sole cost and expense.

"HOA" means a home owners or condominium association, board, corporation or similar entity with authority to create a Lien on a Property as a result of the non-payment of HOA Fees that are payable with respect to such Property.

"HOA Fees" means all homeowner's and condominium owner's association dues, fees, assessments and impositions with respect to a Property, and any other charges levied or assessed or imposed against a Property, or any part thereof, by an HOA.

"HOA Funds" has the meaning set forth in **Section 6.1.3**.

"HOA Property" means a Property which is subject to an HOA.

"HOA Subaccount" has the meaning set forth in **Section 6.1.3**.

"Improvements" means the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on a Property.

"Indebtedness" means, for any Person, without duplication: (i) all indebtedness of such Person for borrowed money, for amounts drawn under a letter of credit, or for the deferred purchase price of property for which such Person or its assets is liable, (ii) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable if such amounts were advanced thereunder, (iii) all amounts required to be paid by such Person as a guaranteed payment to partners or a preferred or special dividend, including any mandatory redemption of shares or interests, (iv) all indebtedness guaranteed by such Person, (v) all obligations under leases that constitute capital leases for which such Person is liable, (vi) all obligations of such Person under interest rate swaps, caps, floors, collars and other interest hedge agreements, in each case for which such Person is liable or its assets are liable, whether such Person (or its assets) is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss and (vii) any other contractual obligation for the payment of money which is not settled within thirty (30) days of the incurrence of such obligation.

"Indemnified Persons" has the meaning set forth in **Section 9.15(a)**.

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

"Independent" means, when used with respect to any Person, a Person who: (i) does not have any direct financial interest or any material indirect financial interest in Borrower or in any Affiliate of Borrower, (ii) is not connected with Borrower or any Affiliate of Borrower as an officer, employee, promoter, underwriter, trustee, partner, member, manager, creditor, director, supplier, customer or Person performing similar functions and (iii) is not a member of the immediate family of a Person defined in **clauses (i) or (ii)** above.

"Independent Accountant" means (i) a firm of nationally recognized, certified public accountants which is Independent and which is selected by Borrower or (ii) such other certified public accountant(s) selected by Borrower, which is Independent and reasonably acceptable to Lender.

"Independent Director" means 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, Lord Securities Corporation or, if none of those companies is then providing professional Independent Directors, another nationally-recognized company reasonably approved by Lender, in each case that is not an Affiliate of Borrower and that provides professional Independent Directors and other corporate services in the ordinary course of its business, and which individual is duly appointed as an Independent Director and is not, and has never been, and will not while serving as Independent Director be, any of the following:

(i) a member, partner, equityholder, manager, director, officer or employee of Borrower or any of its equityholders or Affiliates (other than as an Independent Director of Borrower or an Affiliate of Borrower that is not in the direct chain of ownership of Borrower and that is required by a creditor to be a single purpose bankruptcy remote entity, **provided** that such Independent Director is employed by a company that routinely provides professional Independent Directors or managers in the ordinary course of its business);

(ii) a creditor, supplier or service provider (including provider of professional services) to Borrower or any of its equityholders or Affiliates (other than a nationally-recognized company that routinely provides professional Independent Directors and other corporate services to Borrower or any of its Affiliates in the ordinary course of its business);

(iii) a family member of any such member, partner, equityholder, manager, director, officer, employee, creditor, supplier or service provider; or

(iv) a Person that controls (whether directly, indirectly or otherwise) any of **clauses (i), (ii) or (iii)** above.

A natural person who otherwise satisfies the foregoing definition and satisfies **clause (i)** by reason of being the Independent Director of a “special purpose entity” affiliated with Borrower shall be qualified to serve as an Independent Director of Borrower, **provided** that the fees that such individual earns from serving as an Independent Director of Affiliates of Borrower in any given year constitute in the aggregate less than five percent (5%) of such individual’s annual income for that year. For purposes of this paragraph, a “special purpose entity” is an entity, whose organizational documents contain restrictions on its activities and impose requirements intended to preserve such entity’s separateness that are substantially similar to those contained in the definition of Special Purpose Entity of this Agreement.

“**Individual Material Adverse Effect**” means, in respect of a Property, any event or condition that has a material adverse effect on (i) the value, use, operation, leasing or marketability of such Property or results in any material liability to, claim against or obligation of Lender or any Loan Party or (ii) the enforceability, validity, perfection or priority of the lien of the Collateral Documents with respect to such Property.

“**Initial Principal Balance**” means \$103,000,000.00.

“**Insolvency Opinion**” means that certain non-consolidation opinion letter dated the Closing Date delivered by Hunton Andrews Kurth LLP in connection with the Loan.

“**Insurance Funds**” has the meaning set forth in **Section 6.2.1**.

“**Insurance Premiums**” has the meaning set forth in **Section 5.1.1(d)**.

“**Insurance Proceeds**” has the meaning set forth in the definition of “Net Proceeds”.

“**Insurance Subaccount**” has the meaning set forth in **Section 6.2.1**.

“**Interest Period**” means, in connection with the calculation of interest accrued with respect to any specified Payment Date, including the Maturity Date, the period commencing on and including the Payment Date immediately preceding such Payment Date and ending on and including the date immediately preceding such Payment Date;

provided, however, the initial Interest Period shall be the period commencing on the Closing Date, and ending on and including the day immediately preceding the first Payment Date.

“Interest Rate” means, with respect to each Interest Period, a rate of four and 625/1,000ths percent (4.625%) per annum.

“IRS” means the United States Internal Revenue Service.

“KBRA” means Kroll Bond Rating Agency, Inc.

“Lease” means a bona fide written lease, sublease, letting, license, concession or other agreement pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of any space in any Property by or on behalf of Borrower, and (i) every modification, amendment or other agreement relating to such lease, sublease or other agreement entered into in connection with such lease, sublease or other agreement, and (ii) every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the Tenant.

“Legal Requirements” means, with respect to each Property and the Properties as a whole, all material federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting such Property or any part thereof, or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting Borrower, such Property or any part thereof, including, without limitation, any which may (i) require repairs, modifications or alterations in or to such Property or any part thereof, or (ii) in any way limit the use and enjoyment thereof.

“Lender” has the meaning set forth in the introductory paragraph hereto, together with its successors and assigns.

“Lending Parties” has the meaning set forth in **Section 9.18(a)**.

“Lien” means any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, easement, restrictive covenant, preference, assignment, security interest, or any other encumbrance, charge or transfer of, or any agreement to enter into or create any of the foregoing, on or affecting all or any portion of any Collateral or any interest therein, or any direct interest in Borrower or Equity Owner, including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, and mechanic’s, materialmen’s and other similar liens and encumbrances.

“Loan” means the Loan made by Lender to Borrower pursuant to this Agreement.

“Loan Documents” means, collectively, this Agreement, the Note, each Management Agreement, the Recourse Guaranty, the Equity Owner Guaranty, the Environmental Indemnity, each Collateral Document, and all other agreements, instruments and documents delivered pursuant thereto or in connection therewith, as the same may be (and each of the foregoing defined terms shall refer to such documents as they may be) amended, restated, replaced, supplemented or otherwise modified from time to time.

“Loan Party” means Borrower, Equity Owner and Parent.

“London Business Day” means any day other than a Saturday, Sunday or any other day on which commercial banks in London, England are not open for business.

“Low DSCR Period” shall commence if, as of any Calculation Date, the Debt Service Coverage Ratio is less than 1.2x, and shall end (i) if the Properties have achieved, as of any two succeeding consecutive Calculation

Dates, a Debt Service Coverage Ratio of at least 1.2x, or (ii) on the second succeeding Calculation Date after Borrower shall have prepaid principal amount of the Loan in an amount sufficient to cause the Debt Service Coverage Ratio to be at least 1.2x (such prepayment, a “**Low DSCR Cure Prepayment**”).

“**Major Contract**” means (i) any management agreement relating to the Properties or the Loan Parties to which a Loan Party is a party, (ii) any agreement related to the Properties between any Loan Party and any Affiliate of any Loan Party (other than any Loan Document) and (iii) any brokerage, leasing, cleaning, maintenance, service or other contract or agreement of any kind (other than Leases) relating to the Properties, in each case involving payment or expense of more than One Million Dollars (\$1,000,000) during any twelve (12) month period, unless cancelable on thirty (30) days or less notice without requiring payment of termination fees or payments of any kind (other than amounts that accrued prior to the termination date).

“**Management Agreement**” means (i) the Existing Management Agreement or (ii) a Replacement Management Agreement pursuant to which a Qualified Manager is managing one or more of the Properties in accordance with the terms and provisions of this Agreement, in each case, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Management Fee Cap**” means, with respect to each calendar month, an amount equal to nine percent (9.0%) of gross Rents collected with respect to the Properties for such calendar month, *provided*, that for purposes of determining gross Rents collected, collections of Advance Rent shall be allocated to the applicable calendar month set forth in the applicable Advance Rent Disbursement Schedule.

“**Manager**” means Existing Manager or, if the context requires, a Qualified Manager who is managing one or more of the Properties in accordance with the terms and provisions of this Agreement or pursuant to a Replacement Management Agreement.

“**Manager Default**” means the occurrence of any default by Manager to perform its duties or obligations under the Existing Management Agreement.

“**Margin Stock**” has the meaning set forth in **Section 3.1.20**.

“**Material Action**” has the meaning set forth in the definition of “Special Purpose Entity”.

“**Material Adverse Effect**” means a material adverse effect on (i) the property, business, operations or financial condition of the Loan Parties taken as a whole, (ii) the use, operation or value of the Properties, taken as a whole, (iii) the ability of Borrower to repay the principal and interest of the Loan when due or to satisfy any of Borrower’s other obligations under the Loan Documents, or (iv) the enforceability or validity of any Loan Document, the perfection or priority of any Lien created under any Loan Document or the rights, interests and remedies of Lender under any Loan Document.

“**Maturity Date**” means the Payment Date occurring in October, 2023, or such earlier date on which the final payment of principal of the Note becomes due and payable as therein or herein provided, whether at such stated maturity date, by declaration of acceleration, or otherwise.

“**Maximum Legal Rate**” means the maximum nonusurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the indebtedness evidenced by the Note and as provided for herein or the other Loan Documents, under the laws of such state or states whose laws are held by any court of competent jurisdiction to govern the interest rate provisions of the Loan.

“**Minimum Disbursement Amount**” means \$50,000.

“**Monthly Budgeted Amount**” has the meaning set forth in **Section 4.3.2**.

“**Monthly Debt Service Payment Amount**” means, for each Payment Date, an amount equal to the amount of interest which is then due on the Loan in the aggregate for the Interest Period during which such Payment Date occurs.

“**Moody’s**” means Moody’s Investors Service, Inc.

“**Mortgage**” means a Mortgage or Deed of Trust or Deed to Secure Debt, as applicable, for each Property or for multiple Properties located within the same county or parish, dated as of the Closing Date (or, in connection with a Property which is a Substitute Property, dated as of the date of the substitution), executed and delivered by Borrower, constituting a Lien on the Improvements and the Property or Properties, as applicable, as Collateral for the Obligations, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Mortgage Documents**” means the Mortgages, the Collateral Assignments of Leases and Rents and, if any, the Fixture Filings.

“**Multiemployer Plan**” means a plan within the meaning of Section 414(f) of the Code or Section 3(37) of ERISA to which contributions are required to be made by any Loan Party or any of its ERISA Affiliates or to which any such entity has any liability.

“**Net Assets**” means, with respect to any Person, the difference between (i) such Person’s assets determined in accordance with GAAP, but excluding accumulated depreciation, and (ii) such Person’s liabilities determined in accordance with GAAP.

“**Net Proceeds**” means (i) the net amount of all insurance proceeds received by Lender pursuant to **Section 5.1.1(a)(i)** and **(iii)** as a result of damage to or destruction of a Property, after deduction of its reasonable out-of-pocket costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting same (“**Insurance Proceeds**”), or (ii) the net amount of an Award, after deduction of Lender’s reasonable out-of-pocket costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting same (“**Condemnation Proceeds**”), whichever the case may be.

“**Net Proceeds Deficiency**” has the meaning set forth in **Section 5.4(d)(vi)**.

“**Net Transfer Proceeds**” means, with respect to the Transfer of any Property, the gross sales price for such Property (including any earnest money, down payment or similar deposit included in the total sales price paid by the purchaser), less Transfer Expenses.

“**Non-Property Taxes**” means all Taxes other than Property Taxes.

“**Not-Borrower Funds**” means funds deposited into the Rent Deposit Account by mistake or otherwise that are not property of Borrower or security deposits.

“**Note**” means, that certain Promissory Note in respect of the Loan, dated the relevant date of an extension of credit under **Section 2.1**, made by Borrower in favor of Lender in the amount of the Initial Principal Balance, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Obligations**” means, collectively, Borrower’s obligations for the payment of the Debt and the performance by the Loan Parties of the Other Obligations.

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

“**Officer’s Certificate**” means a certificate delivered to Lender by Borrower which is signed by an authorized officer of Borrower.

“Operating Expenses” means, for any period, without duplication, all expenses actually paid or payable by Borrower during such period in connection with the administration, operation, management, maintenance, repair and use of the Properties, determined on an accrual basis, and, except to the extent otherwise provided in this definition, in accordance with GAAP. Operating Expenses specifically shall include, without duplication, (i) all operating expenses incurred in such period based on quarterly financial statements delivered to Lender in accordance with **Section 4.3.1(a)**, (ii) cost of utilities, inventories, and fixed asset supplies consumed in the operation of the Properties, (iii) fees payable to the Manager in an amount equal to the greater of (A) actual fees paid to the Manager or (B) the Management Fee Cap, (iv) costs and fees of independent professionals (including, without limitation, legal, accounting, consultants and other professional expenses), technical consultants, operational experts (including quality assurance inspectors) or other third parties retained to perform services required or permitted hereunder, (v) operational equipment and other lease payments to the extent constituting operating expenses under GAAP, (vi) Property Taxes and HOA Fees, (vii) insurance premiums and (viii) Property maintenance expenses. Notwithstanding the foregoing, Operating Expenses shall not include (A) depreciation or amortization, (B) income taxes or other charges in the nature of income taxes, (C) any expenses (including legal, accounting and other professional fees, expenses and disbursements) incurred in connection with the making of the Loan or the sale, exchange, transfer, financing or refinancing of all or any portion of any Property or in connection with the recovery of Insurance Proceeds or Awards, (D) any loss that is covered by the Policies, including any portion of a loss that is subject to a deductible under the Policies, (E) Capital Expenditures, (F) Debt Service, (G) expenses incurred in connection with the acquisition and initial leasing and renovation of Properties and other activities undertaken prior to such initial lease that do not constitute recurring operating expenses to be paid by Borrower, including eviction of existing tenants, incentive payments to tenants and other similar expenses, (H) any item of expense which would otherwise be considered within Operating Expenses pursuant to the provisions above but is paid directly by any Tenant under a Lease, (I) any service that is required to be provided by Manager pursuant to the Management Agreement without compensation or reimbursement (other than the management fee set forth in the Management Agreement), (J) any expenses that relate to a Property from and after the release of such Property in accordance with **Section 2.5**, (K) bad debt expense with respect to Rents and lost Rents due to vacancies, (L) the value of any free rent or other concessions provided with respect to the Properties, or (M) corporate overhead expenses incurred by Borrower’s Affiliates.

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

“Other Obligations” means (i) the performance of all obligations of Borrower contained herein; (ii) the performance of each obligation of the Loan Parties contained in any other Loan Document; and (iii) the performance of each obligation of the Loan Parties contained in any renewal, extension, amendment, restatement, modification, consolidation, change of, or substitution or replacement for, all or any part of this Agreement, the Note or any other Loan Document.

“Other Receipts” for any period of determination, any actual receipts received by Borrower from sources other than Rents with respect to the Properties, to the extent they are properly included as operating income for such period in accordance with GAAP (including maintenance recovery fees but, for the avoidance of doubt, excluding income from the Transfer of any Property).

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

“Outstanding Principal Balance” means, as of any date, outstanding principal balance of the Loan.

“Parent” means AG Mortgage Investment Trust, Inc., a Maryland corporation.

“**Parent Financial Covenant**” means the requirement that Parent or any Qualified Transferee that executes and delivers a replacement guaranty pursuant to **Section 4.2.17(e)** maintain Net Assets of not less than \$100,000,000.00 (exclusive of Parent’s or such Qualified Transferee’s indirect interest in Borrower).

“**Parent Financial Test**” means the Net Assets of the Parent or any Qualified Transferee that executes and delivers a replacement guaranty pursuant to Section 4.2.17(e) shall be greater than or equal to \$325,000,000.00 (exclusive of Parent’s or such Qualified Transferee’s indirect interest in Borrower).

“**Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

“**Patriot Act Offense**” has the meaning set forth in **Section 3.1.24(a)**.

“**Payment Date**” means the tenth (10th) day of each calendar month during the Term or, if such tenth (10th) day is not a Business Day, the immediately preceding Business Day; **provided**, that the first Payment Date shall be October 10, 2018.

“**PBGC**” means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

“**Permitted Indebtedness**” has the meaning set forth in **Section 4.2.2**.

“**Permitted Investments**” means:

(i) obligations of, or obligations fully guaranteed as to payment of principal and interest by, the United States or any agency or instrumentality thereof, **provided** such obligations are backed by the full faith and credit of the United States including, without limitation, obligations of: the United States Treasury (all direct or fully guaranteed obligations), the Farmers Home Administration (certificates of beneficial ownership), the General Services Administration (participation certificates), the United States Maritime Administration (guaranteed Title XI financing), the Small Business Administration (guaranteed participation certificates and guaranteed pool certificates), the United States Department of Housing and Urban Development (local authority bonds) and the Washington Metropolitan Area Transit Authority (guaranteed transit bonds); **provided, however**, that the investments described in this clause must (A) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (B) if rated by S&P, must not have an “r” highlighter affixed to their rating, (C) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (D) such investments must not be subject to liquidation prior to their maturity;

(ii) federal funds, unsecured certificates of deposit, time deposits, bankers’ acceptances and repurchase agreements with maturities of not more than 365 days of any bank, (A) in the case of such investments with maturities of thirty (30) days or less, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “A2” by Moody’s, (B) in the case of such investments with maturities of three (3) months or less, but more than thirty (30) days, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “A1” by Moody’s, (C) in the case of such investments with maturities of six (6) months or less, but more than three (3) months, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “Aa3” by Moody’s, and (D) in the case of such investments with maturities of more than six (6) months, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated “Aaa” by Moody’s; **provided**,

however, that the investments described in this clause must (1) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (2) if rated by S&P, must not have an “r” highlighter affixed to their rating, (3) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (4) such investments must not be subject to liquidation prior to their maturity;

(iii) fully Federal Deposit Insurance Corporation-insured demand and time deposits in, or certificates of deposit of, or bankers’ acceptances issued by, any bank or trust company, savings and loan association or savings bank, (A) in the case of such investments with maturities of thirty (30) days or less, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “A2” by Moody’s, (B) in the case of such investments with maturities of three (3) months or less, but more than thirty (30) days, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “A1” by Moody’s, (C) in the case of such investments with maturities of six (6) months or less, but more than three (3) months, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “Aa3” by Moody’s, and (D) in the case of such investments with maturities of more than six (6) months, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated “Aaa” by Moody’s; **provided, however**, that the investments described in this clause must (1) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (2) if rated by S&P, must not have an “r” highlighter affixed to their rating, (3) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (4) such investments must not be subject to liquidation prior to their maturity;

(iv) debt obligations with maturities of not more than 365 days and at all times rated by each Rating Agency in its highest long-term unsecured rating category (or, if not rated by all Rating Agencies, rated by Moody’s in its highest long-term unsecured rating category); **provided, however**, that the investments described in this clause must (A) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (B) if rated by S&P, must not have an “r” highlighter affixed to their rating, (C) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (D) such investments must not be subject to liquidation prior to their maturity;

(v) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) with maturities of not more than 365 days (A) in the case of such investments with maturities of thirty (30) days or less, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “A2” by Moody’s, (B) in the case of such investments with maturities of three (3) months or less, but more than thirty (30) days, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “A1” by Moody’s, (C) in the case of such investments with maturities of six (6) months or less, but more than three (3) months, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated at least “Aa3” by Moody’s, and (D) in the case of such investments with maturities of more than six (6) months, the short term obligations of which are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by Moody’s in the highest short term rating category) and the long term obligations of which are rated “Aaa” by Moody’s; **provided, however**, that the investments described in this clause must (1) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (2) if rated by S&P, must not have an “r” highlighter affixed to their rating, (3) if such investments have a variable rate of

interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (4) such investments must not be subject to liquidation prior to their maturity;

(vi) units of taxable money market funds, which funds are regulated investment companies and invested solely in obligations backed by the full faith and credit of the United States, which funds have the highest rating available from each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency) for money market funds; and

(vii) any other security, obligation or investment which has been specifically approved as a Permitted Investment in writing by Lender;

provided, however, that no obligation or security shall be a Permitted Investment if (a) such obligation or security evidences a right to receive only interest payments or (b) the right to receive principal and interest payments on such obligation or security are derived from an underlying investment that provides a yield to maturity in excess of one hundred twenty percent (120%) of the yield to maturity at par of such underlying investment and **provided, further**, that each investment described hereunder must have (x) a predetermined fixed amount of principal due at maturity (that cannot vary or change) and (y) an original maturity of not more than 365 days and a remaining maturity of not more than thirty (30) days.

“Permitted Liens” means, collectively, (i) the Liens and security interests created by the Loan Documents, (ii) all encumbrances and other matters disclosed in the Title Insurance Policies for the Properties and, with respect to any Substitute Property, as Lender has approved in writing in Lender’s reasonable discretion, (iii) Liens, if any, for Non-Property Taxes or Property Taxes imposed by any Governmental Authority not yet due or delinquent, (iv) Liens arising after the Closing Date for Non-Property Taxes, Property Taxes or HOA Fees being contested in accordance with **Section 4.1.4** or **Section 4.4.5**, (v) any workers’, mechanics’ or other similar Liens on a Property that are bonded or discharged within sixty (60) days after Borrower first receives written notice of such Lien, (vi) all easements, rights-of-way, restrictions and other similar non-monetary encumbrances recorded against and affecting any Property and that would not reasonably be expected to and do not have an Individual Material Adverse Effect on the Property, (vii) such other title and survey exceptions as Lender has approved or may approve in writing in Lender’s reasonable discretion, (viii) rights of Tenants as Tenants only under Leases permitted hereunder, and (ix) the Specified Liens.

“Permitted Transfers” has the meaning set forth in **Section 4.2.17(d)**.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any Governmental Authority and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Plan” means an “employee benefit plan” as defined in Section 3(3) of ERISA that is established, maintained or contributed to by any Loan Party or any of its ERISA Affiliates (or as to which such entity has any liability) and that is covered by Title IV of ERISA, other than a Multiemployer Plan.

“Plan Termination Event” means (i) any event described in Section 4043 of ERISA with respect to any Plan; (ii) the withdrawal of any Loan Party or any of its ERISA Affiliates from a Plan during a plan year in which such Loan Party or such ERISA Affiliate was a “substantial employer” as defined in Section 4001(a)(2) of ERISA; (iii) the imposition of an obligation on any Loan Party or any of its ERISA Affiliates under Section 4041 of ERISA to provide affected parties written notice of intent to terminate a Plan in a distress termination described in Section 4041(c) of ERISA; (iv) the institution of proceedings by the PBGC to terminate a Plan or by any similar foreign governmental authority to terminate a Foreign Plan; (v) any event or condition which could reasonably constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (vi) the institution of proceedings by a foreign governmental authority to appoint a trustee to administer any Foreign Plan; or (vii) the partial or complete withdrawal of any Loan Party or any of its ERISA Affiliates from a Multiemployer Plan or Foreign Plan or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“**Policy**” and “**Policies**” shall have the respective meanings set forth in **Section 5.1.1(b)**.

“**Prepayment Notice**” means a prior written notice to Lender specifying the proposed Business Day on which a prepayment of the Debt is to be made pursuant to **Section 2.4.1**, which date shall be no earlier than ten (10) days after the date of such Prepayment Notice and no later than ninety (90) days after the date of such Prepayment Notice. A Prepayment Notice may be revoked in writing by Borrower, or may be modified in writing by Borrower to a new specified Business Day, in each case, on or prior to the proposed prepayment date set forth in such Prepayment Notice; **provided** that such new Business Day shall be no earlier than such proposed prepayment date. If revoked (as opposed to modified), any new Prepayment Notice shall comply with the timeframes set forth above. Borrower shall pay to Lender all reasonable out-of-pocket costs and expenses (if any) incurred by Lender in connection with Borrower’s permitted revocation or modification of any Prepayment Notice.

“**Properties Schedule**” means the data tape of Properties attached hereto as **Schedule II.A** as of the Closing Date, as updated on a monthly basis in the form attached hereto as **Schedule II.B**, pursuant to **Section 4.3.7**.

“**Property**” means, individually, and “**Properties**” means, collectively, (i) the residential real properties described on the Properties Schedule as of the Closing Date and encumbered by the Mortgages and (ii) any residential real properties that are Substitute Properties; **provided** that if the Allocated Loan Amount for any Property has been reduced to zero and all interest and other Obligations related thereto that are required to be paid on or prior to the date when the Allocated Loan Amount for such Property is required to be repaid have been repaid in full, then such residential real property shall no longer be a Property hereunder. The Properties include the Improvements now or hereafter erected or installed thereon and other personal property owned by Borrower located thereon, together with all rights pertaining to such real property, Improvements and personal property.

“**Property Covenants**” means those covenants set forth in **Section 4.4** and the covenants contained in Section 2 of the Environmental Indemnity.

“**Property Representations**” means those representations and warranties set forth in **Section 3.2** and Section 1 of the Environmental Indemnity.

“**Property Taxes**” means any real estate and personal property taxes, assessments, water charges, sewer rents, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto now or hereafter levied or assessed or imposed by a Governmental Authority against any Property, any Collateral, any part of either of the foregoing or Borrower.

“**Provided Information**” means any and all financial and other information provided in writing at any time prepared by, or on behalf of, any Loan Party.

“**Public Vehicle**” means a Person whose securities are listed and traded on a national securities exchange and shall include a majority owned subsidiary of any such Person or any operating partnership through which such Person conducts all or substantially all of its business.

“**Purchase Agreement**” means the Purchase and Sale Agreement, dated August 31, 2018, by and among Conrex Residential Property Group 2012-2, LLC, a South Carolina limited liability company, and Ovation Properties, LLC, a Texas limited liability company, together as sellers, and Borrower, as buyer, as amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Qualified Manager**” means (i) Existing Manager, (ii) any Person that is under common Control with Existing Manager or (iii) a reputable Person that has at least two (2) years’ experience in the management of at least 2,000 residential rental properties in the aggregate, and is at the time of determination managing residential rental properties in (a) at least 75% of the metropolitan statistical areas that the applicable Properties to be managed by such Person are located (and has retained by subcontract a property manager in all other metropolitan statistical areas before the effectiveness of any termination or resignation of the Manager) and (b) every state that the applicable Properties to be managed by such Person are located, and is not the subject of a bankruptcy or similar proceeding;

provided, that if such Person is an Affiliate of Borrower, Borrower shall have obtained an Additional Insolvency Opinion if such an opinion is requested by Lender.

“Qualified Release Property Default” has the meaning set forth in **Section 2.5(b)**.

“Qualified Transferee” means (i) Parent or (ii) any Person that (A) itself has, or for which a Person executing and delivering the Recourse Guaranty or a replacement guaranty in substantially the same form and substance as the Recourse Guaranty has, Net Assets of not less than \$325,000,000.00 (exclusive of such Person’s direct or indirect interest in the Properties and Borrower), (B) has not been the subject of a voluntary or involuntary (to the extent the same has not been discharged) bankruptcy proceeding or any governmental or regulatory investigation which resulted in a final, nonappealable conviction for criminal activity involving moral turpitude, and (C) is (or is under common Control with a Person that is) regularly engaged in the management, ownership or operation of residential rental properties.

“Rating Agencies” means each of the nationally recognized statistical rating agencies.

“Recourse Guaranty” means that certain Recourse Guaranty and Indemnity, dated as of the Closing Date, executed by Parent and Equity Owner, jointly and severally, in favor of Lender in respect of this Agreement, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, pursuant to which Equity Owner and Parent, jointly and severally, provide a limited guaranty for certain bad acts.

“Register” has the meaning set forth in **Section 8.1**.

“Release Amount” means, for a Property, the following applicable amount together with any other amounts specified in **Section 2.4.4**:

(i) in connection with the Transfer of a Property pursuant to **Section 2.5** or any failure of a Property to qualify as an Eligible Property due to the occurrence of a Voluntary Action (such Properties, **“Release Premium Properties”**), (A) one hundred five percent (105%) of the Allocated Loan Amount for such Property if the sum of the initial Allocated Loan Amounts of all Release Premium Properties, including such Property, is less than \$10,300,000, (B) one hundred ten percent (110%) of the Allocated Loan Amount for such Property if the sum of the initial Allocated Loan Amounts of all Release Premium Properties, including such Property, is equal to or greater than \$10,300,000 but less than \$15,450,000, (C) one hundred fifteen percent (115%) of the Allocated Loan Amount for such Property if the sum of the initial Allocated Loan Amounts of all Release Premium Properties, including such Property, is equal to or greater than \$15,450,000 but less than \$20,600,000, and (D) one hundred twenty percent (120%) of the Allocated Loan Amount for such Property if the sum of the initial Allocated Loan Amounts of all Release Premium Properties, including such Property, is equal to or greater than \$20,600,000;

(ii) in connection with any failure of a Property to qualify as an Eligible Property, other than due to the occurrence of a Voluntary Action, that is not cured within the applicable Cure Period, an amount equal to one hundred percent (100%) of the Allocated Loan Amount for such Property; and

(iii) in connection with any Condemnation or Casualty of any Property for which prepayment of the Release Amount is required pursuant to **Section 5.3** or **Section 5.4**, one hundred percent (100%) of the Allocated Loan Amount for such Property.

“Release Premium Properties” has the meanings set forth in the definition of **“Release Amount”**.

“Release Property” has the meaning set forth in **Section 2.5**.

“Renovation Standards” means the maintenance, repairs, improvements and installations that (i) are necessary for a Property to conform to applicable material Legal Requirements and

(ii) do not deviate materially from local rental market standards for the area in which such Property is located.

“**Rent Deposit Account**” has the meaning set forth in **Section 2.6(a)**.

“**Rent Deposit Bank**” has the meaning set forth in **Section 2.6(a)**.

“**Rent Refund**” means, with respect to any Tenant in default under any applicable Lease, any payment of Rent (in whole or in part) delivered by such Tenant to Manager, to the extent Borrower or Manager reasonably determines the return of the same is necessary in order to preserve Borrower’s enforcement remedies under the applicable Lease.

“**Rents**” means, with respect to each Property, all rents and rent equivalents (including for forfeited security deposits allocated to rent) and any fees (other than any lease application fees received from a prospective tenant), payments or other compensation from any Tenant.

“**Repayment Date**” means the date of a prepayment of the Loan pursuant to the provisions of **Section 2.4**.

“**Replacement Management Agreement**” means, collectively, (i) either (A) a management agreement with a Qualified Manager, substantially in the same form and substance as the Existing Management Agreement; (B) a management agreement with a Qualified Manager, which management agreement shall be reasonably acceptable to Lender in form and substance; *provided*, that with respect to this **clause (B)**, if such management agreement provides for the payment of management fees at a rate that is in excess of the rate provided for under the Existing Management Agreement, then Borrower shall have obtained Lender’s prior written consent; or (C) a management agreement with a Manager approved by Lender in accordance with **Section 4.1.18(b)(y)** and satisfying the conditions set forth in **clauses (B)(x)** and **(B)(y)** above, and (ii) an assignment of management agreement and subordination of management fees substantially in the form of the Assignment of Management Agreement dated as of the Closing Date (or such other form and substance reasonably acceptable to Lender and the Qualified Manager).

“**Reportable Event**” has the meaning set forth in Section 4043 of ERISA.

“**Representatives**” has the meaning set forth in **Section 9.21**.

“**Request for Release**” means a request for release of a Property in connection with any Transfer of a Property, substantially in the form attached hereto as **Exhibit D**.

“**Reserve Funds**” means, collectively, all funds deposited by Borrower with Lender or Cash Management Account Bank pursuant to **Article VI**, including, but not limited to, the Capital Expenditure Funds, the Debt Service Funds, the HOA Funds, the Insurance Funds, the Tax Funds, the Casualty and Condemnation Funds, the Cash Collateral Funds, the Eligibility Funds and the Advance Rent Funds.

“**Reserve Release Date**” means any Business Day as requested by Borrower pursuant to a Reserve Release Request; *provided*, that there shall be no more than one Reserve Release Date for each account in any calendar month.

“**Reserve Release Request**” means any written request by Borrower for a release of Reserve Funds made in accordance with **Article VI**.

“**Responsible Officer**” means, as to any Person, the chief executive officer or president or, with respect to financial matters, the chief financial officer or treasurer of such Person; *provided*, that in the event any such officer is unavailable at any time he or she is required to take any action hereunder, Responsible Officer means any officer authorized to act on such officer’s behalf as demonstrated by a certified resolution.

“Restoration” means the repair and restoration of any Property after a Casualty as nearly as possible to the condition such Property was in immediately prior to such Casualty, with such material alterations as may be approved by Lender, such approval not to be unreasonably withheld, delayed or conditioned.

“Restricted Junior Payment” means, with respect to any Person, (i) any dividend or other distribution of any nature (cash, securities, assets, Indebtedness or otherwise) and any payment, by virtue of redemption, retirement or otherwise, on any class of Equity Interests or subordinate Indebtedness issued by such Person, whether such Equity Interests are now or may hereafter be authorized or outstanding and any distribution in respect of any of the foregoing, whether directly or indirectly, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any Equity Interests or subordinate Indebtedness of such Person now or hereafter outstanding, or (iii) any payment of management or similar fees by such Person (other than payment of management fees under any Management Agreement to the extent expressly permitted by this Agreement).

“Restricted Party” means, collectively, Borrower, Equity Owner, and any other direct or indirect equity holder in Borrower or Equity Owner up to, but not including, the first direct or indirect equity holder that has substantial assets other than the Properties and the other Collateral.

“S&P” means S&P Global Ratings.

“Securities Act” means the Securities Act of 1933, as amended.

“Security Deposit Account” has the meaning set forth in **Section 4.1.16(a)**.

“Servicer” has the meaning set forth in **Section 8.2**.

“Servicing Agreement” has the meaning set forth in **Section 8.2**.

“Severed Loan Documents” has the meaning set forth in **Section 7.2(c)**.

“Solvent” means, with respect to any Person or any consolidated group, on any date of determination, that on such date (i) the fair saleable value of such Person’s or consolidated group’s assets exceeds its total liabilities, including, without limitation, subordinated, unliquidated, disputed and contingent liabilities, (ii) the fair saleable value of such Person’s or consolidated group’s assets exceeds its probable liabilities, as applicable, including the maximum amount of its contingent liabilities on its debts as such debts become absolute and matured, (iii) such Person’s or consolidated group’s assets do not constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted and (iv) such Person or consolidated group does not intend to, and does not believe that it will, incur debt and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debt and liabilities as they mature (taking into account the timing and amounts of cash to be received by it and the amounts to be payable on or in respect of its obligations).

“Special Members” has the meaning set forth in the definition of “Special Purpose Entity”.

“Special Purpose Entity” means a limited liability company that, since the date of its formation and at all times on and after the date thereof, has complied with and shall at all times comply with the following requirements unless it has received prior consent to do otherwise from Lender:

(i) is and shall be organized solely for the purpose of (A) in the case of Borrower, acquiring, maintaining, renovating, rehabilitating, owning, holding, marketing, selling, leasing, transferring, managing and operating the Properties, entering into and performing its obligations under the Loan Documents to which it is a party, refinancing the Properties in connection with a permitted repayment of the Loan and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing, and (B) in the case of Equity Owner, acting as the sole member of Borrower and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(ii) has not engaged and shall not engage in any business unrelated to (A) in the case of Borrower, the acquisition, renovation, maintenance, ownership, holding, marketing, sale, leasing, transfer, management, operation or financing of the Properties, or, if consented to by Lender, acting as sole member of a subsidiary. and (B) in the case of Equity Owner, acting as the sole member of Borrower;

(iii) has not owned and shall not own any real property other than the Properties;

(iv) does not have, shall not have and at no time had any assets other than (A) in the case of Borrower, the Properties, personal property necessary or incidental to its ownership and operation of the Properties, or (B) in the case of Equity Owner, its membership interest in Borrower and personal property necessary or incidental to its ownership of such interest;

(v) shall not cause, consent to or permit any amendment of its certificate of formation or its limited liability company agreement with respect to the matters set forth in this definition;

(vi) with respect to each of Borrower and Equity Owner, (A) is and shall be a Delaware limited liability company, (B) has and shall have at least two (2) Independent Directors serving as managers of such company, (C) shall not take, and neither the member of Borrower or Equity Owner nor any officer of Borrower or Equity Owner nor any other Person shall be authorized or empowered to take any of the following actions, either with respect to itself or, with respect to any subsidiary of it that is a Loan Party, in each case without the prior unanimous consent of all the Independent Directors of the company in writing to such action (each, a “**Material Action**”): (1) filing or consenting to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable insolvency, bankruptcy, liquidation or reorganization statute, (2) seeking or consenting to the appointment of a receiver, liquidator or any similar official of Borrower or Equity Owner or a substantial part of its respective business, (3) making an assignment for the benefit of creditors by Borrower or Equity Owner, (4) admitting in writing its inability to pay debts generally as they become due, (5) declaring or effectuating a moratorium on the payment of any obligations of Borrower or Equity Owner, or (6) taking any action in furtherance of the foregoing, **provided**, for purposes of clauses (4) and (6), the following shall not constitute a Material Action: (x) admissions or statements which are compelled and required by law and which are true and correct, or (y) admissions or statements in writing to Lender or any Servicer of the Loan, or in connection with any audit opinion or “going concern” qualification in its audited financial statements, that (I) Borrower cannot pay its Operating Expenses, (II) Borrower cannot pay debt service on the Loan, or (III) Borrower cannot repay or refinance the Loan on the Maturity Date; notwithstanding any provision of law that otherwise so empowers such company, its member or any officer or any other Person, **provided, however**, that, so long as the Loan is outstanding such company may not authorize the taking of any Material Action, unless there are at least two (2) Independent Directors the serving in such capacity and (D) under the terms of its limited liability company agreement, immediately prior the occurrence of any event that causes the sole member to cease to be a member of such company (other than upon continuation of such company without dissolution upon an assignment by the member of all of its limited liability interest in such company and the admission of the transferee in accordance with such company’s limited liability company agreement), each of the persons acting as Independent Director of such entity shall, without any action of any Person, automatically be admitted as members of the limited liability company (“**Special Members**”) and shall pursue and continue the existence of the limited liability company without dissolution and such Special Members may not resign as such until (i) a successor Special Member has been admitted to the limited liability company as a Special Member and (ii) such successor Special Member has also accepted its appointment as an Independent Director;

(vii) has and shall have a limited liability agreement that provides that, to the fullest extent permitted by applicable law, including Section 18-1101(e) of the Delaware Limited Liability Company Act, the Independent Directors of Borrower or Equity Owner shall not be liable to such respective Person, its respective equity holders or any other Person bound by its limited liability agreement for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct;

(viii) has and shall have a limited liability agreement that provides that such entity shall not (A) dissolve, merge, liquidate, consolidate; (B) sell all or substantially all of its assets, except as expressly permitted

under the Loan Documents; or (C) amend its organizational documents with respect to the matters set forth in this definition without the consent of Lender;

(ix) has at all times been and shall intend at all times to remain solvent and has paid and shall pay its debts and liabilities (including, a fairly-allocated portion of any personnel and overhead expenses that it shares with any Affiliate) from its assets as the same shall become due, and has maintained and shall intend to 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 direct or indirect member of Borrower or Equity Owner to make any additional capital contributions to Borrower or Equity Owner, as the case may be;

(x) has not failed and shall not fail to correct any known misunderstanding regarding the separate identity of such entity and has not identified and shall not identify itself as a division of any other Person;

(xi) has maintained and shall maintain its bank accounts, books of account, books and records separate from those of any other Person and, to the extent that it is required to file tax returns under applicable law, has filed and shall file its own tax returns, except to the extent that it is required by law to file consolidated tax returns;

(xii) has maintained and shall maintain its own records, books, resolutions and agreements;

(xiii) has not commingled and, except as contemplated by this Agreement (including, notwithstanding any provision to the contrary, as contemplated in the case of Not-Borrower Funds in **Section 2.6**), shall not commingle its funds or assets with those of any other Person and has not participated and shall not participate in any cash management system with any other Person;

(xiv) has held and shall hold its assets in its own name;

(xv) has conducted and shall conduct its business in its name or in a name franchised or licensed to it by an entity other than an Affiliate of itself or of Borrower, except for business conducted on behalf of itself by another Person under a business management services agreement that is on commercially-reasonable terms, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of Borrower;

(xvi) (A) has maintained and shall maintain its financial statements, accounting records and other entity documents separate from those of any other Person; (B) has shown and shall show, in its financial statements, its assets and liabilities separate and apart from those of any other Person; and (C) has not permitted and shall not permit its assets to be listed as assets on the financial statement of any of its Affiliates except as required by GAAP; **provided, however**, that any such consolidated financial statement contains a note indicating that the Special Purpose Entity's separate assets and credit are not available to pay the debts of such Affiliate and that the Special Purpose Entity's liabilities do not constitute obligations of the consolidated entity;

(xvii) has paid and shall pay its own liabilities and expenses, including the salaries of its own employees, out of its own funds and assets, and has maintained and shall maintain a sufficient number of employees or contract for sufficient services in light of its contemplated business operations;

(xviii) has observed and shall observe all limited liability company formalities;

(xix) has not incurred and shall not incur any Indebtedness other than, (i) with respect to Borrower, Permitted Indebtedness, and (ii) with respect to Equity Owner, Equity Owner's Permitted Indebtedness;

(xx) has not assumed, guaranteed or become obligated and shall not assume or guarantee or become obligated for the debts of any other Person, has not held out and shall not hold out its credit as being available

to satisfy the obligations of any other Person or has not pledged and shall not pledge its assets to secure the obligations of any other Person, in each case except as permitted or contemplated by the Loan Documents;

(xxi) has not acquired and shall not acquire obligations or securities of its members or any Affiliate; **provided**, that Equity Owner shall be the sole member of Borrower;

(xxii) has allocated and shall allocate fairly and reasonably any overhead expenses that are shared with any of its Affiliates, constituents, or owners, or any guarantors of any of their respective obligations, or any Affiliate of any of the foregoing, including, but not limited to, paying for shared office space and for services performed by any employee of an Affiliate;

(xxiii) has maintained and used and shall maintain and use separate stationery, invoices and checks bearing its name and not bearing the name of any other entity unless such entity is clearly designated as being the Special Purpose Entity's agent;

(xxiv) has not pledged and shall not pledge its assets to secure the obligations of any other Person, except to Lender to secure the Obligations;

(xxv) has held itself out and identified itself and shall hold itself out and identify itself as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of Borrower and not as a division or part of any other Person;

(xxvi) has maintained and shall maintain its assets in such a manner that it shall not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xxvii) has not made and shall not make loans to any Person and has not held and shall not hold evidence of indebtedness issued by any other Person or entity (other than cash and Permitted Investments);

(xxviii) has not identified and shall not identify its members or any Affiliate of any of them, as a division or part of it, and has not identified itself and shall not identify itself as a division of any other Person;

(xxix) other than capital contributions and distributions permitted under the terms of its organizational documents, has not entered into or been a party to, and shall not enter into or be a party to, any transaction with any of its members except in the ordinary course of its business and on terms which are commercially reasonable terms comparable to those of an arm's-length transaction with an unrelated third party;

(xxx) has not had and shall not have any obligation to, and has not indemnified and shall not indemnify its partners, officers, directors or members, as the case may be, in each case unless such an obligation or indemnification is fully subordinated to the Debt and shall not constitute a claim against it in the event that its cash flow is insufficient to pay the Debt;

(xxxi) has not had and shall not have any of its obligations guaranteed by any Affiliate, except as provided by the Loan Documents or as otherwise consented to by Lender;

(xxxii) has not formed, acquired or held and shall not form, acquire or hold any subsidiary, except as contemplated by the Loan Documents;

(xxxiii) has complied and shall comply with all of the terms and provisions contained in its organizational documents;

(xxxiv) has conducted and shall conduct its business so that each of the assumptions made about it and each of the facts stated about it in the Insolvency Opinion, or if applicable, any Additional Insolvency Opinion, are true and correct in all material respects; and

(xxxv) has not permitted and shall not permit any Affiliate or constituent party independent access to its bank accounts, except Manager pursuant to a Management Agreement entered into in accordance with this Agreement.

“**Specified Liens**” means Liens described in Schedule X affecting one or more of the Properties as of the Closing Date, **provided** that all such Liens on the affected Properties are affirmatively covered by the Title Insurance Policies.

“**State**” means, with respect to a Property, the State or Commonwealth in which such Property or any part thereof is located.

“**Subaccounts**” has the meaning set forth in **Section 2.7.1(e)**.

“**Substitute Mortgage Documents**” has the meaning set forth in **Section 2.4.2(a)(x)**.

“**Substitute Property**” and “**Substitute Properties**” shall have the respective meanings set forth in **Section 2.4.2(a)**.

“**Succeeding Interest Period**” has the meaning set forth in **Section 2.4.4(a)(ii)**.

“**Tax Funds**” has the meaning set forth in **Section 6.1.1**.

“**Tax Subaccount**” has the meaning set forth in **Section 6.1.1**.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Tenant**” means any Person obligated by contract or otherwise to pay monies (including a percentage of gross income, revenue or profits) under any Lease now or hereafter affecting all or any part of a Property.

“**Term**” means the entire term of this Agreement, which shall expire upon repayment in full of the Debt.

“**Title Insurance Owner’s Policy**” means, with respect to each Property, an ALTA owner title insurance policy issued by a title insurance company reasonably acceptable to Lender in a form reasonably acceptable to Lender (or, if a Property is in a state which does not permit the issuance of such ALTA policy, such form as shall be permitted in such state and determined that is reasonably acceptable to Lender) issued with respect to such Property and insuring the legal title to such Property.

“**Title Insurance Policy**” means, with respect to each Property or multiple Properties encumbered by the same Mortgage, an ALTA mortgagee title insurance policy issued by a title insurance company reasonably acceptable to Lender containing such endorsements as Lender may reasonably require (to the extent available in the state where the Property or the Properties, as applicable, are located) in a form reasonably acceptable to Lender (or, if such Property or the Properties, as applicable, are located in a state which does not permit the issuance of such ALTA policy, such form as shall be permitted in such state and determined that is reasonably acceptable to Lender) issued with respect to such Property or Properties, as applicable, and insuring the Lien of the Mortgage Documents encumbering such Property or Properties, as applicable (subject to Permitted Liens) other than Specified Liens.

“**Transaction**” means the transaction contemplated by this Agreement and the other Loan Documents.

“**Transfer**” has the meaning set forth in **Section 4.2.17(b)**.

“**Transfer Date**” means the date upon which a Transfer of a Property is consummated.

“**Transfer Expenses**” means, with respect to the Transfer of any Property, the reasonable expenses of Borrower incurred in connection therewith not to exceed six percent (6.0%) of all gross amounts realized with respect thereto, for any of the following: (i) third party real estate commissions, (ii) the closing costs of the purchaser of such Property actually paid by Borrower and (iii) Borrower’s miscellaneous closings costs, including, but not limited to title, escrow and appraisal costs and expenses.

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

“**U.S. Tax Compliance Certificate**” has the meaning set forth in **Section 2.8(e)(iii)(B)(3)**.

“**UCC**” or “**Uniform Commercial Code**” means the Uniform Commercial Code as in effect in the State (with respect to fixtures), the State of New York or the state in which the Cash Management Account is located, as the case may be.

“**Underwritten Capital Expenditures**” means, as of any date of determination, for the twelve (12) month period ending on such date, the product of (i) the number of Properties multiplied by (ii) \$450.

“**Underwritten Net Cash Flow**” means, as of any date of determination, the excess of:

(i) for the twelve (12) month period ending on such date, the sum of (A) the lesser of (1) GPR *multiplied by* 92.5%, and (2) Actual Rent Collections, and (B) Other Receipts; *over* (ii) for the twelve (12) month period ending on such date, the sum of (A) Operating Expenses, adjusted to reflect exclusion of amounts representing non-recurring expenses, and (B) Underwritten Capital Expenditures. For purposes of the foregoing calculations, for each of the first three Calculation Dates after the Closing Date, Operating Expenses, Actual Rent Collections and Other Receipts with respect to the Properties for the period from the Closing Date to and including each such Calculation Date shall be annualized to determine the twelve (12) month Operating Expenses, Actual Rent Collections and Other Receipts with respect to the Properties.

Notwithstanding the foregoing, Underwritten Net Cash Flow shall not include (a) any Insurance Proceeds (other than business interruption and/or rental loss insurance proceeds and only to the extent allocable to the applicable reporting period), (b) any proceeds resulting from the Transfer of all or any portion of any Property, including any Award, (c) any item of income otherwise included in Underwritten Net Cash Flow but paid directly by any Tenant to a Person other than Borrower as an offset or deduction against Rent payable by such Tenant, **provided** such item of income is for payment of an item of expense (such as payments for utilities paid directly to a utility company) and such expense is otherwise excluded from the definition of Operating Expenses pursuant to clause “(H)” of the definition thereof, (d) security deposits received from Tenants until forfeited or applied and (e) any lease buy-out or surrender payment from any Tenant.

Notwithstanding anything herein to the contrary, the Underwritten Net Cash Flow of any Property that is a Disqualified Property shall be zero for all purposes of this Agreement unless Borrower makes a deposit of Eligibility Funds into the Eligibility Reserve Subaccount in an amount equal to one hundred percent (100%) of the Allocated Loan Amount for such Property.

“**United States**” means the United States of America.

“**Unrestricted Cash**” means any cash or Permitted Investments not held in the Cash Management Account, any Subaccount, the Rent Deposit Account or any Security Deposit Account or required to be deposited therein pursuant to this Agreement; **provided**, that funds held in Borrower’s Operating Account that were distributed to Borrower for Operating Expenses set forth in a Monthly Budgeted Amount or for Approved Extraordinary Expenses pursuant to **Section 2.7.2(i)(B)** and which have not been expended therefor are not Unrestricted Cash.

“**Vacant Property**” means, individually, and “**Vacant Properties**” means, collectively, the Properties listed on **Schedule IX** attached hereto which are not leased to or occupied by any Tenant as of the Cut-Off Date. The parties hereto agree that **Schedule IX** shall be revised to reflect the final list of Vacant Properties agreed to in the Purchase Agreement.

“**Voluntary Action**” means, in respect of any Property, a voluntary action or omission by any Loan Party or an action or omission by any third party authorized by a Loan Party that, in each case, such Loan Party intends to result in (i) an imposition of a Lien (other than a Permitted Lien) on such Property, (ii) a Transfer of such Property in violation of this Agreement or (iii) such Property becoming a Disqualified Property.

“**Yield Maintenance Date**” means the Payment Date occurring in September, 2022.

“**Yield Maintenance Premium**” means, with respect to any prepayment of principal (or acceleration of the Loan) prior to the Yield Maintenance Date (other than payments made pursuant to **Section 2.4.2(a)** (except where such prepayment arises as a result of a Voluntary Action) or **Section 2.4.2(c)**), an amount equal to the sum of the present values calculated for each Payment Date occurring after the date of such prepayment to and including the Yield Maintenance Date of the result of the following: (i) the amount of such prepayment (or the amount of principal so accelerated), *multiplied* by (ii) the Interest Rate *divided* by (iii) twelve (12), discounted monthly to the date of such prepayment at a rate equal to the Treasury Rate, based on a 360 day year of twelve 30-day months. All Yield Maintenance Premium payments hereunder shall be deemed to be earned by Lender upon the funding of the Loan. For purposes of calculating the Yield Maintenance Premium, the term “**Treasury Rate**” means a per annum rate (expressed as a monthly equivalent and as a decimal and, in the case of United States Treasury bills, converted to a bond equivalent yield), determined to be the per annum rate equal to the monthly yield to maturity for United States Treasury securities maturing on the Yield Maintenance Date, as determined by interpolation between the most recent weekly average yields to maturity for two series of United States Treasury securities.

Section 1.2 Principles of Construction. All references to sections and schedules are to sections and schedules in or to this Agreement unless otherwise specified. All uses of the word “including” shall mean “including, without limitation” unless the context shall indicate otherwise. Unless otherwise specified, the words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined. References to Schedules refer to the cumulative Schedules delivered for each date on which a portion of the Loan is funded, unless otherwise indicated.

ARTICLE II - GENERAL TERMS

Section 2.1 Loan Commitment; Disbursement to Borrower.

2.1.1 Agreement to Lend and Borrow. Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

2.1.2 Single Disbursement to Borrower. Borrower may request and receive only one (1) borrowing hereunder in respect of the Loan, and any amount borrowed and repaid hereunder in respect of the Loan may not be reborrowed. Borrower acknowledges and agrees that the Loan has been fully funded as of the Closing Date.

2.1.3 The Note, Mortgages and Loan Documents. The Loan shall be evidenced by the Note and secured by the Mortgages and the other Loan Documents (as the same may be amended from time to time).

2.1.4 Use of Proceeds. Borrower shall use proceeds of the Loan to (a) make deposits of the Reserve Funds, (b) make distributions to Equity Owner, (c) pay costs and expenses incurred in connection with the closing of the Loan, and (d) to the extent any proceeds remain after satisfying **clauses (a) through (c)** above, for such lawful purpose as Borrower shall designate.

Section 2.2 Interest Rate.

2.2.1 Interest Rate. The Loan shall accrue interest throughout the Term at the Interest Rate. Borrower shall pay to Lender on the dates provided in **Section 2.3.1**, the interest accrued or to be accrued on the Loan for the related Interest Period.

2.2.2 Interest Calculation. Interest on the Loan and other Obligations shall be calculated by *multiplying* (A) the actual number of days elapsed in the period for which the calculation is being made by (B) a daily rate based on a three hundred sixty (360) day year (that is, the Interest Rate expressed as an annual rate divided by 360) by (C) the Outstanding Principal Balance or the amount of such other Obligations, as applicable, outstanding during such period. The accrual period for calculating interest due on each Payment Date shall be the Interest Period in which such Payment Date occurs.

2.2.3 Determination of Interest Rate. The Loan shall bear interest at the Interest Rate, subject to **Sections 2.2.4** and **2.2.5**.

2.2.4 Default Rate. In the event that, and for so long as, any Event of Default shall have occurred and be continuing, the Outstanding Principal Balance of the Loan and, to the extent not prohibited by applicable law, all other portions of the Debt, shall accrue interest at the Default Rate, calculated from the date such payment was due or, if later, such Default shall have occurred, without regard to any grace or cure periods contained herein. Interest at the Default Rate shall be paid immediately upon demand, which demand may be made as frequently as Lender shall elect, to the extent not prohibited by applicable law.

2.2.5 Usury Savings. This Agreement, the Note and the other Loan Documents are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the Outstanding Principal Balance at a rate which could subject Lender to either civil or criminal liability as a result of being in excess of the Maximum Legal Rate. If, by the terms of this Agreement or the other Loan Documents, Borrower is at any time required or obligated to pay interest on the Loan at a rate in excess of the Maximum Legal Rate, the Interest Rate or the Default Rate, as the case may be, of the Loan shall be deemed to be immediately reduced to the Maximum Legal Rate and all previous payments in excess of such Maximum Legal Rate shall be deemed to have been payments in reduction of principal of the Loan and not on account of the interest due hereunder and no Yield Maintenance Premium shall be owing on any such reduction of principal and the provisions of **Section 2.4.4** (other than those of **Section 2.4.4(e)**) shall apply to any such reduction of principal. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the sums due under the Loan, shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount of interest on account of the Loan does not exceed the Maximum Legal Rate of interest from time to time in effect and applicable to the Loan for so long as the Loan is outstanding.

Section 2.3 Loan Payment.

2.3.1 Monthly Debt Service Payments. Borrower shall pay to Lender on each Payment Date, to and including the Maturity Date, an amount of interest equal to the Monthly Debt Service Payment Amount for the related Interest Period, which amount will be applied in accordance with the provisions of this **Article II**. On each Payment Date, Borrower shall also pay to Lender all amounts required in respect of Reserve Funds as set forth in **Article VI**.

2.3.2 Payments Generally. For purposes of making payments hereunder, but not for purposes of calculating Interest Periods, if the day on which such payment is due is not a Business Day, then amounts due on such date shall be due on the immediately preceding Business Day and with respect to payments of principal due on the Maturity Date, interest shall be payable at the Interest Rate or the Default Rate, as the case may be, through and including the last day of the related Interest Period. All amounts due under this Agreement and the other Loan Documents shall be payable without setoff, counterclaim, defense or any other deduction whatsoever.

2.3.3 Payment on Maturity Date. Borrower shall pay to Lender on the Maturity Date the Outstanding Principal Balance, all accrued and unpaid interest and all other amounts due hereunder and under the Note, the Mortgage Documents and the other Loan Documents.

2.3.4 Late Payment Charge. If any principal, interest or any other sums due under the Loan Documents (including the amounts due on the Maturity Date) are not paid by Borrower on or prior to the date on which it is due, Borrower shall pay to Lender upon demand an amount equal to the lesser of four percent (4%) of such unpaid sum or the Maximum Legal Rate in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. Any such amount shall be secured by the Mortgages and the other Loan Documents to the extent permitted by applicable law.

2.3.5 Method and Place of Payment. Except as otherwise specifically provided herein, all payments and prepayments under this Agreement and the Note shall be made to Lender not later than 2:00 p.m., New York City time, on the date when due and shall be made in lawful money of the United States of America in immediately available funds at Lender's office or as otherwise directed by Lender, and any funds received by Lender after such time shall, for all purposes hereof, be deemed to have been paid on the next succeeding Business Day.

Section 2.4 Prepayments and Substitutions.

2.4.1 Voluntary Prepayments. Upon timely delivery by Borrower to Lender of a Prepayment Notice, Borrower may prepay all or any portion of the Outstanding Principal Balance and any other amounts outstanding under the Note, this Agreement, the Mortgage Documents and any of the other Loan Documents, on any Business Day *provided* that Borrower shall comply with the provisions of and pay to Lender the amounts set forth in **Section 2.4.4**. Each such prepayment shall be in a minimum principal amount equal to \$1,000,000 and in integral multiples of \$100,000 in excess thereof and shall be made and applied in the manner set forth in **Section 2.4.4**.

2.4.2 Mandatory Prepayments.

(a) **Disqualified Properties.** If at any time any Property shall become a Disqualified Property, Borrower shall, no later than the close of business on the fifth (5th) Business Day following the last day of the applicable Cure Period, give notice thereof to Lender and prepay the Debt in the applicable Release Amount with respect to such Property. No Yield Maintenance Premium shall be owing on any such prepayment unless such Property became a Disqualified Property as a result of a Voluntary Action. After the prepayment of the Debt by the Release Amount with respect to a Disqualified Property as provided above, (i) if the breach or failure that resulted in such Property becoming a Disqualified Property relates solely to such Disqualified Property, such breach or failure shall be deemed cured and shall not result in a Default or Event of Default under this Agreement or any other Loan Document, and (ii) Lender shall release the Disqualified Property from the applicable Mortgage Documents and related Lien; *provided*, that (x) Borrower has delivered to Lender a draft release (and, in the event the Mortgage and the Collateral Assignment of Leases and Rents applicable to the Disqualified Property encumbers other Property(ies) in addition to the Disqualified Property, such release shall be a partial release that relates only to the Disqualified Property and does not affect the Liens and security interests encumbering or on the other Property(ies)) in form and substance appropriate for the jurisdiction in which such Disqualified Property is located and shall contain standard provisions protecting the rights of Lender and (y) Borrower shall pay all costs, taxes and expenses associated with such release (including, without limitation, cost to file and record the release and Lender's reasonable attorneys' fees). Notwithstanding the foregoing, in lieu of such prepayment, Borrower may either (1) deposit an amount equal to one hundred percent (100%) of the Allocated Loan Amount for such Disqualified Property in the Eligibility Reserve Subaccount in accordance with and subject to **Section 6.5** or (2) substitute a Disqualified Property or a portfolio of Disqualified Properties (each, an "**Affected Property**" and collectively, the "**Affected Properties**") with a substitute Eligible Property or a portfolio of Eligible Properties (each, a "**Substitute Property**" and collectively, the "**Substitute Properties**"); and upon such deposit or substitution, if the breach or failure that resulted in such Property becoming a Disqualified Property relates solely to such Disqualified Property, such breach or failure shall be deemed to be cured and shall not result in a Default or Event of Default under this Agreement or any other Loan Document; *provided* that, in the case of a proposed substitution, the following conditions are satisfied:

(i) each substitute Eligible Property shall (1) be a detached single family residential real property or a condominium or townhome (so long as condominium units and townhomes constitute no more than two percent (2%) of the Properties by BPO Value and provided no condominium that is a Substitute Property shall consist of more than one single family unit), but excluding housing cooperatives and manufactured housing, (2) be subject to an Eligible Lease, and (3) be located in an MSA that contains at least one Property as of the Closing Date, and no such substitute Eligible Property shall change the concentration by more than five percent (5.0%), covered under applicable insurance and title policies;

(ii) no Event of Default shall have occurred and be continuing except as related to, and cured by the removal of, the Affected Property being substituted;

(iii) Lender shall have obtained, at Borrower's sole cost and expense, a Broker Price Opinion for the applicable Affected Property or Affected Properties and the applicable Substitute Property or Substitute Properties and based on such Broker Price Opinion(s), the Substitute Property (or portfolio of Substitute Properties) shall have the same or greater BPO Value as the greater of (x) the BPO Value of the Affected Property (or portfolio of Affected Properties) being substituted as of the Closing Date and (y) the BPO Value of the Affected Property (or portfolio of Affected Properties) being substituted at the time of substitution;

(iv) Borrower shall deliver to Lender an Officer's Certificate stating that each Substitute Property satisfies each of the Property Representations and is in compliance with each of the Property Covenants on the date of the substitution after giving effect to the substitution;

(v) there is an Eligible Lease for each Substitute Property;

(vi) the in place Rents under the Lease(s) for the Substitute Property (or Substitute Properties, if a portfolio of Affected Properties are being substituted) shall be equal to or greater than the greater of (A) the in place Rents under the Lease(s) for the Affected Property (or portfolio of Affected Properties) being substituted measured as of the time of substitution and (B) the in place Rents under the Lease(s) for the Affected Property (or portfolio of Affected Properties) being substituted measured as of the Closing Date;

(vii) simultaneously with the substitution, Borrower shall convey all of Borrower's right, title and interest in, to and under the Affected Property (or portfolio of Affected Properties) being substituted to a Person other than a Loan Party, and Borrower shall deliver to Lender a copy of the deed conveying all of Borrower's right, title and interest in such Affected Property (or portfolio of Affected Properties) being substituted;

(viii) Borrower shall deliver on or prior to the date of substitution evidence satisfactory to Lender that each Substitute Property is insured pursuant to Policies meeting the requirements of **Article V**;

(ix) Borrower shall deliver to Lender the deed, Title Insurance Owner's Policy and the Lease with respect to each Substitute Property;

(x) Borrower shall have executed and delivered to Lender, the Mortgage Documents with respect to each Substitute Property, which shall be in substantially the same form as the Mortgage, Collateral Assignment of Leases and Rents and Fixture Filing, if applicable, executed and/or delivered on the Closing Date with such changes as may be necessitated or appropriate (as reasonably determined by Lender) for the jurisdiction in which the Substitute Property is located, and which may, in Lender's reasonable discretion, be Mortgage Documents with respect to only such Substitute Property (and in the event the Substitute Property is located in the same county or parish in which one or more other Properties (other than the Affected Property or Affected Properties being substituted) is located, such Mortgage and Collateral Assignment of Leases and Rents may be in the form of an amendment and spreader agreement to the existing Mortgage and Collateral Assignment of Leases and Rents covering such Property or Properties located in the same county or parish as the Substitute Property, in each case, in form and substance reasonably acceptable to Lender) (the "**Substitute Mortgage Documents**");

(xi) Borrower shall deliver to Lender the following opinions of counsel: (A) an opinion of counsel admitted to practice under the laws of the state in which the Substitute Property (or portfolio of Substitute Properties) being substituted is located in form and substance reasonably satisfactory to Lender opining as to the enforceability of the Substitute Mortgage Documents with respect to the Substitute Property and (B) an opinion stating that the Substitute Mortgage Documents were duly authorized, executed and delivered by Borrower and that the execution and delivery of such Substitute Mortgage Documents and the performance by Borrower of its obligations thereunder will not cause a breach or a default under, any agreement, document or instrument to which Borrower is a party or to which it or the Properties are bound and otherwise in form and substance reasonably satisfactory to Lender;

(xii) Lender shall have received a Title Insurance Policy for the Substitute Property (or, in the event a Substitute Property is located in the same county or parish in which one or more other Properties (other than an Affected Property being substituted) is located, an endorsement to the existing Title Insurance Policy with respect to such Property or Properties located in the same county or parish as such Substitute Property in form and substance reasonably satisfactory to Lender) insuring the Lien of the Mortgage encumbering such Substitute Property as a valid first lien on such Substitute Property, free and clear of all exceptions other than the Permitted Liens;

(xiii) each Substitute Property shall be located in a metropolitan statistical area that contains at least one property described on the Properties Schedule as of the Closing Date,

(xiv) no acquisition of a Substitute Property will result in Borrower or Equity Owner incurring any Indebtedness (except as permitted by this Agreement);

(xv) the aggregate Allocated Loan Amounts of the Disqualified Properties being substituted, together with the aggregate Allocated Loan Amounts of all Disqualified Properties that have been substituted with Substitute Properties since the Closing Date, shall be no more than ten percent (10%) of the Outstanding Principal Balance;

(xvi) if any Lien, litigation or governmental proceeding is existing or pending or, to the actual knowledge of a Responsible Officer of a Loan Party, threatened against any Affected Property being substituted with a Substitute Property or against such Substitute Property which may result in liability for Borrower, Borrower shall have deposited with Lender reserves reasonably satisfactory to Lender as security for the satisfaction of such liability; and

(xvii) Borrower shall pay to Lender all reasonable out-of-pocket costs and expenses incurred by Lender in connection with the substitution (including, without limitation, reasonable out-of-pocket costs and expenses incurred by Lender in connection with the release of the Affected Property (or portfolio of Affected Properties) being substituted from applicable Mortgage Documents).

Any such deposit in the Eligibility Reserve Subaccount or any such substitution shall be completed no later than the due date for the prepayment required under this **Section 2.4.2(a)**.

Simultaneously with the substitution of a Affected Property, Lender shall release the Affected Property or Affected Properties from the applicable Mortgage Documents and related Lien, **provided** that Borrower has delivered to Lender a draft release (and, in the event the Mortgage and the Collateral Assignment of Leases and Rents applicable to the Affected Property or Affected Properties encumbers other Property(ies) in addition to the Affected Property or Affected Properties, such release shall be a partial release that relates only to the Affected Property or Affected Properties being substituted and does not affect the Liens and security interests encumbering or on the other Property(ies)) in form and substance appropriate for the jurisdiction in which such Affected Property or Affected Properties are located which contains standard provisions protecting the rights of Lender.

Notwithstanding anything to the contrary contained herein, in no event may Borrower substitute Eligible Properties for more than five percent (5.0%) of the Properties set forth on the Closing Date Properties Schedule.

(b) Transfer. If at any time any Property is sold or otherwise disposed of, then Borrower shall, no later than the close of business on the day on which such Transfer occurs, give notice thereof to Lender and prepay the Debt in the applicable Release Amount with respect to such Property in accordance with **Section 2.5**.

(c) Condemnation or Casualty. If Borrower is required to make any prepayment under **Section 5.3** or **Section 5.4** as a result of a Condemnation or Casualty, on the next occurring Payment Date following the date on which Lender actually receives the applicable Net Proceeds, such Net Proceeds, up to the amount required to be prepaid as provided in **Section 5.3** or **Section 5.4**, as applicable, shall be applied to the prepayment of the Debt in accordance with **Section 2.4.4(d)**. For the avoidance of doubt, no Yield Maintenance Premium shall be due in connection with any prepayment made pursuant to this **Section 2.4.2(c)**.

(d) Application of Mandatory Prepayments. Each such prepayment shall be made and applied in the manner set forth in **Section 2.4.4**.

(e) Payment from Cash Management Account. Lender may collect any prepayment required under this **Section 2.4.2** from the Cash Management Account on the date such prepayment is payable hereunder.

2.4.3 Prepayments After Default

(a) If, during the continuance of an Event of Default, payment of all or any part of the Debt is tendered by Borrower and accepted by Lender or is otherwise recovered by Lender (including through application of any Reserve Funds), such tender or recovery shall be deemed to be a voluntary prepayment by Borrower and Borrower shall pay, as part of the Debt, all of: (i) all accrued interest calculated at the Interest Rate on the amount of principal being prepaid through and including the date of such prepayment together with an amount equal to the interest that would have accrued at the Interest Rate on the amount of principal being prepaid through the end of the Interest Period in which such prepayment occurs, notwithstanding that such Interest Period extends beyond the date of prepayment and (ii) an amount equal to the Yield Maintenance Premium (if made before the Yield Maintenance Date).

(b) Notwithstanding anything contained herein to the contrary, upon the occurrence and during the continuance of any Event of Default, any payment of principal, interest and other amounts payable under the Loan Documents from whatever source may be applied by Lender among the Loan and other Obligations as Lender shall determine in its sole and absolute discretion.

2.4.4 Prepayment/Repayment Conditions

(a) On the date on which a prepayment, voluntary or mandatory, is made under the Note or as required under this Agreement, which date must be a Business Day, Borrower shall pay to Lender:

(i) all accrued and unpaid interest calculated at the Interest Rate on the amount of principal being prepaid through and including the Repayment Date, together with an amount equal to the interest that would have accrued at the Interest Rate on the amount of principal being prepaid through the end of the Interest Period in which such prepayment occurs, notwithstanding that such Interest Period extends beyond the date of prepayment;

(ii) if such prepayment occurs prior to the Yield Maintenance Date, the Yield Maintenance Premium applicable thereto; **provided** that no Yield Maintenance Premium shall be due in connection with (x) a prepayment under **Section 2.4.2(a)** (except where such prepayment arises as a result of a Voluntary Action or except as set forth in clause (z) below), (y) a prepayment under **Section 2.4.2(c)**, or (z) with respect to a voluntary prepayment in connection with sales and releases of Properties representing no more than ten percent (10.0%) in the aggregate of the initial Allocated Loan Amounts; and

(iii) all other sums, then due under the Note, this Agreement and the other Loan Documents.

(b) Borrower shall pay all reasonable out-of-pocket costs and expenses of Lender incurred in connection with the repayment or prepayment (including without limitation reasonable attorneys' fees and expenses and reasonable out-of-pocket costs and expenses related to the Transfer or substitution of any Property); **provided**, for the avoidance of doubt, this provision shall not apply with respect to Taxes.

(c) Except during an Event of Default, prepayments shall be applied by Lender in the following order of priority: (i) *first*, to any amounts (other than principal, interest, and Yield Maintenance Premium) then due and payable under the Loan Documents, including any reasonable out-of-pocket costs and expenses of Lender in connection with such prepayment; (ii) *second*, to interest payable pursuant to **Section 2.4.4(a)(i)** on the amount of principal being prepaid pursuant to this **clause (c)** at the Interest Rate; (iii) *third*, to Yield Maintenance Premium, to the extent applicable, on the principal being prepaid pursuant to this **clause (c)**; and (iv) *fourth*, to principal, applied as set forth in **clause (d)** below.

(d) Except during an Event of Default, prepayments of principal of the Loan made pursuant to this **Section 2.4.4** shall be applied to the Loan until the Outstanding Principal Balance of the Loan is reduced to zero.

(e) Prepayments under **Section 2.4.1** only shall reduce the Allocated Loan Amounts for each Property on a *pro rata* basis. Prepayments under **Section 2.4.2** shall reduce the Allocated Loan Amount with respect to the applicable Property, until the Allocated Loan Amount and any interest, fees or other Obligations related thereto is zero; any excess portion of such prepayment shall not serve to reduce the Allocated Loan Amount for any other Property.

(f) Lender shall, upon the written request and at the expense of Borrower, upon payment in full of the Debt in accordance with the terms and provisions of the Loan Documents, release the Liens of the Mortgage Documents and cause the trustees under any of the Mortgages to reconvey the applicable Properties to Borrower. In connection with the releases of the Liens, Borrower shall submit to Lender, forms of releases of Liens (and related Loan Documents) for execution by Lender. Such releases shall be the forms appropriate in the jurisdictions in which the Properties are located and contain standard provisions protecting the rights of Lender. In addition, Borrower shall provide all other documentation Lender reasonably requires to be delivered by Borrower in connection with such releases, together with an Officer's Certificate certifying that such documentation (i) is in compliance with all Legal Requirements, and (ii) will effect such release in accordance with the terms of this Agreement. Borrower shall pay all out-of-pocket costs, taxes and expenses associated with the release of the Liens of the Mortgage Documents, including Lender's reasonable attorneys' fees.

Section 2.5 Release of Property. Borrower may Transfer any Property or obtain a release of any Disqualified Property upon a prepayment of the Loan as provided for in **Section 2.4.1** (each, a "**Release Property**") and Lender shall release the Release Property from the applicable Mortgage Documents and release the security interest and Lien on any Collateral located at such Release Property, provided that the following conditions precedent to such Transfer are satisfied (the "**Release Conditions**"); **provided**, that, for the avoidance of doubt, the Release Conditions do not need to be satisfied in order for Lender to release its security interest and Lien on any Disqualified Property in connection with any substitution in accordance with **Section 2.4.2(a)**:

(a) Borrower shall submit to Lender, not less than ten (10) Business Days prior to the Transfer Date, a Request for Release, together with all attachments thereto and evidence reasonably satisfactory to Lender that the conditions precedent set forth in this **Section 2.5** will be satisfied upon the consummation of such Transfer;

(b) No Event of Default has occurred and is continuing (other than a non-monetary Event of Default that is specific to such Release Property to which **Section 2.4.2(a)** is applicable and would be cured as a result of the release of the Release Property, so long as a mandatory prepayment is made with respect thereto in accordance with **Section 2.4.2(a)** (a "**Qualified Release Property Default**"));

(c) Except with respect to any release of a Disqualified Property, the Debt Service Coverage Ratio as of the most recent Calculation Date, after giving pro forma effect for the elimination of the Underwritten Net Cash Flow for the Release Property and the repayment of the Loan in the applicable Release Amount, is at least

equal to the actual Debt Service Coverage Ratio as of such date and would not result in the occurrence of a Low DSCR Period; **provided**, that the condition in this clause (c) shall not be applicable to a Transfer of a Property if the Loan is prepaid in the amount that is the greater of the applicable Release Amount and 100% of the Net Transfer Proceeds for the Release Property;

(d) Except for a release of the Release Property that is effected in order to cure a Qualified Release Property Default, the Release Property shall be Transferred pursuant to a bona fide all-cash sale of the Release Property on arms-length terms and conditions;

(e) On or prior to the Transfer Date, Borrower shall prepay the Outstanding Principal Balance by an amount equal to the applicable Release Amount for the Release Property and Borrower shall comply with the provisions and pay to Lender the amounts set forth in **Section 2.4.4**;

(f) If a Cash Sweep Period is continuing on the Transfer Date, the excess, if any, of (i) the Net Transfer Proceeds for the Release Property over (ii) the applicable Release Amount for the Release Property and any other amounts payable to Lender in connection with such release shall be deposited into the Cash Collateral Subaccount;

(g) Borrower shall submit to Lender, not less than five (5) Business Days' prior to the Transfer Date, a draft release for the applicable Mortgage Documents (and, in the event the Mortgage and the Collateral Assignment of Leases and Rents applicable to the Release Property encumber other Property(ies) in addition to the Release Property, such release shall be a partial release that relates only to the Release Property and does not affect the Liens and security interests encumbering or on the other Property(ies)) in form and substance appropriate for the jurisdiction in which the Release Property is located and shall contain standard provisions protecting the rights of Lender. In addition, Borrower shall provide all other documentation of a ministerial or administrative nature that Lender reasonably requires to be delivered by Borrower in connection with such release or assignment; and

(h) Borrower shall have paid all taxes and all reasonable out-of-pocket costs and expenses incurred by Lender in connection with any such release.

Section 2.6 Rent Deposit Account.

(a) During the Term, Borrower shall establish and maintain one or more bank accounts for the purpose of collecting Rents (each a "**Rent Deposit Account**") at an Eligible Institution selected by Borrower and reasonably approved by Lender (the "**Rent Deposit Bank**"). Each Rent Deposit Account shall be subject to a Deposit Account Control Agreement and Borrower and Manager shall have access to and may make withdrawals from and may withhold the deposit of Rent payments from the Rent Deposit Accounts for the sole purpose of making Rent Refunds or removing Not-Borrower Funds (with the prior approval of Borrower); **provided**, that, in no event shall the amount of Rent Refunds and Not-Borrower Funds so withdrawn from or withheld from the Rent Deposit Accounts during any calendar month exceed two and one-half percent (2.5%) of the total Rents actually deposited into the Rent Deposit Accounts during the prior calendar month; **provided, further**, that during the continuance of an Event of Default, Lender may exercise sole control and dominion over the Rent Deposit Accounts and neither Borrower nor Manager shall have the right of access to, withdraw from or withhold deposits from the Rent Deposit Accounts. Manager may (with the prior approval of Borrower) direct the Rent Deposit Bank to directly transfer to the Security Deposit Account any security deposits identified by the Manager that are on deposit in the Rent Deposit Account. All monies now or hereafter deposited into the Rent Deposit Account shall be deemed additional security for the Debt. Subject to the foregoing, Borrower shall cause all Rents that are paid to or received by Borrower or Manager to be deposited into a Rent Deposit Account or the Cash Management Account within three (3) Business Days after receipt thereof by Borrower or Manager. Borrower shall (or instruct Manager to) cause all funds on deposit in a Rent Deposit Account to be deposited into the Cash Management Account every second (2nd) Business Day (or more frequently in Borrower's discretion); **provided**, that prior to any acceleration of the Loan Borrower may cause Rent Deposit Bank to retain a reasonable amount of funds in the Rent Deposit Accounts with respect to anticipated overdrafts, charge-backs and bank fees and any minimum balance required by the applicable Deposit Account Control Agreement or account terms for the Rent Deposit Accounts, not in excess of \$100,000 in the aggregate. Borrower

shall cause any Rents which are paid to Borrower or Manager via wire or other electronic means to be deposited directly into a Rent Deposit Account or the Cash Management Account. In addition, Borrower shall, and shall cause Manager to, deposit any other Collections (other than (x) Rents, (y) Insurance Proceeds and Condemnation Proceeds, which shall be deposited into the Casualty and Condemnation Subaccount pursuant to the terms hereof and (z) Net Transfer Proceeds, which shall be deposited into the Cash Management Account pursuant to the terms hereof) received by or on behalf of Borrower directly into a Rent Deposit Account within three (3) Business Days following receipt thereof.

(b) Borrower hereby grants to Lender a first-priority security interest in the Rent Deposit Accounts and all deposits at any time contained therein and the proceeds thereof and will take all actions necessary to maintain in favor of Lender a perfected first-priority security interest in the Rent Deposit Accounts. All reasonable out-of-pocket costs and expenses for establishing and maintaining the Rent Deposit Accounts shall be paid by Borrower. All monies now or hereafter deposited into the Rent Deposit Accounts shall be deemed additional security for the Debt.

(c) During the continuance of an Event of Default, Lender may, in addition to any and all other rights and remedies available to Lender, apply any sums then present in the Rent Deposit Accounts to the payment of the Debt in any order in its sole discretion.

(d) Except as provided in clause (a) with respect to Not-Borrower Funds, the Rent Deposit Accounts shall not be commingled with other monies held by Borrower, Manager or Rent Deposit Bank.

(e) Borrower shall not further pledge, assign or grant any security interest in the Rent Deposit Accounts or the monies deposited therein or permit any lien or encumbrance to attach thereto, or any levy to be made thereon, or any UCC-1 financing statements, except those naming Lender as the secured party, to be filed with respect thereto.

(f) Borrower shall indemnify Lender and hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and reasonable out-of-pocket costs and expenses (including litigation costs and reasonable attorneys' fees and expenses) arising from or in any way connected with the Rent Deposit Accounts and/or the related Deposit Account Control Agreement (unless arising from the gross negligence or willful misconduct of Lender) or the performance of the obligations for which the Rent Deposit Accounts were established.

Section 2.7 Cash Management.

2.7.1 Cash Management Account.

(a) During the Term, Borrower shall establish and maintain a segregated Eligible Account (the "**Cash Management Account**") to be held by Cash Management Account Bank in trust and for the benefit of Lender, which Cash Management Account shall be under the sole dominion and control of Lender or Servicer on behalf of Lender. Borrower hereby grants to Lender a first-priority security interest in the Cash Management Account and all deposits at any time contained therein and the proceeds thereof and will take all actions necessary to maintain in favor of Lender a perfected first-priority security interest in the Cash Management Account, including, without limitation, filing UCC-1 financing statements and continuations thereof. Borrower will not in any way alter or modify the Cash Management Account. Lender and Servicer on behalf of Lender shall have the sole right to make withdrawals from the Cash Management Account and all reasonable out-of-pocket costs and expenses for establishing and maintaining the Cash Management Account shall be paid by Borrower.

(b) The insufficiency of funds on deposit in the Cash Management Account shall not relieve Borrower from the obligation to make any payments, as and when due pursuant to this Agreement and the other Loan Documents, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.

(c) All funds on deposit in the Cash Management Account following the occurrence of an Event of Default may be applied by Lender in such order and priority as Lender shall determine.

(d) In the event of any Transfer of any Property, Borrower shall (or shall cause Manager or the closing title company or escrow agent, as applicable, to) deposit directly into the Cash Management Account the Net Transfer Proceeds for allocation in accordance with the terms of this Agreement. Except as expressly provided herein, Borrower shall, and shall cause Manager to, deposit any other Collections received by or on behalf of Borrower directly into the Cash Management Account or Rent Deposit Account within three (3) Business Days following receipt thereof; **provided**, that Insurance Proceeds and Condemnation Proceeds shall be handled in accordance with **Sections 5.2, 5.3 and 5.4**.

(e) Lender may also establish subaccounts of the Cash Management Account which shall at all times be Eligible Accounts (and may be ledger or book entry accounts and not actual accounts) (such subaccounts are referred to herein as “**Subaccounts**”). The Reserve Funds will be maintained in Subaccounts.

(f) The Cash Management Account and all other Subaccounts shall be subject to the Blocked Account Control Agreement and shall be under the sole control and dominion of Lender or Servicer on behalf of Lender. Neither Borrower nor Manager shall have the right of withdrawal with respect to the Cash Management Account or any Subaccounts except with the prior written consent of Lender, and neither Borrower, Manager, nor any Person claiming on or behalf of or through Borrower or Manager shall have any right or authority to give instructions with respect to the Cash Management Account or the Subaccounts.

(g) Borrower acknowledges and agrees that Cash Management Account Bank shall comply with (i) the instructions originated by Lender with respect to the disposition of funds in the Cash Management Account and the Subaccounts without the further consent of Borrower or Manager or any other Person and (ii) all “entitlement orders” (as defined in Section 8-102(a)(8) of the UCC) and instructions originated by Lender directing the transfer or redemption of any financial asset relating to the Cash Management Account or any Subaccount without further consent by Borrower or any other Person. The Cash Management Account and each Subaccount is and shall be treated either as a “securities account”, as such term is defined in Section 8-501(a) of the UCC, or a “deposit account”, as defined in Section 9-102(a)(29) of the UCC.

(h) During the Term, Borrower shall not and shall cause Manager not to deposit Rents or other Collections (other than Insurance Proceeds and Condemnation Proceeds, which shall be deposited into the Casualty and Condemnation Subaccount pursuant to the terms hereof) into any account other than a Rent Deposit Account or the Cash Management Account.

2.7.2 Order of Priority of Funds in Cash Management Account. Unless otherwise directed by Lender during the continuance of an Event of Default pursuant to **Section 2.7.3**, on each Payment Date during the Term, Collections received during the related Collection Period (less any fees and expenses of the Cash Management Account Bank then due and payable) shall be applied on such Payment Date in the following order of priority:

(a) *first*, to the applicable Security Deposit Account, the amount of any security deposits that have been deposited into the Cash Management Account by Borrower during the calendar month ending immediately prior to such Payment Date, as set forth in a written notice from Borrower to Lender delivered pursuant to **Section 4.3.9**;

(b) *second*, to Lender, funds sufficient to pay the Outstanding Principal Balance of the Loan on the Maturity Date;

(c) *third*, to Lender the amount of any mandatory prepayment of the Outstanding Principal Balance pursuant to **Section 2.4.2** then due and payable and all other amounts payable in connection therewith, such amounts to be applied in the manner set forth in **Section 2.4.4(d)**;

- (d) *fourth*, to the Tax Subaccount, to make the required payments of Tax Funds as required under **Section 6.1**;
- (e) *fifth*, to the Insurance Subaccount, to make any required payments of Insurance Funds as required under **Section 6.2**;
- (f) *sixth*, to the HOA Subaccount, to make any required payments of HOA Funds as required under **Section 6.1**;
- (g) *seventh*, to Lender, funds sufficient to pay the Monthly Debt Service Payment Amount;
- (h) *eighth*, to the Capital Expenditure Subaccount, to make the required payments of Capital Expenditure Funds as required under **Section 6.3**;
- (i) *ninth*, to Manager, management fees payable for the calendar month ending immediately prior to such Payment Date, but not in excess of the Management Fee Cap for such calendar month;
- (j) *tenth*, to the Casualty and Condemnation Subaccount, in the amount of Casualty and Condemnation Funds (if any), as required under **Section 6.4**;
- (k) *eleventh*, to Lender, any other fees, costs, expenses or indemnities then due or payable under this Agreement or any other Loan Document;
- (l) *twelfth*, to Manager, any remaining management fees and other operating expenses then due and payable;
- (m) *thirteenth*, all amounts remaining after payment of the amounts set forth in **clauses (a)** through **(l)** above (the “**Available Cash**”) shall be applied as follows:

- (A) if as of a Payment Date no Cash Sweep Period is continuing, any remaining amounts to Borrower’s Operating Account; and
- (B) if as of a Payment Date a Cash Sweep Period is continuing:
 - (1) *first*, to Borrower’s Operating Account, funds in an amount equal to the Monthly Budgeted Amount;
 - (2) *second*, to Borrower’s Operating Account, payments for Approved Extraordinary Expenses, if any; and
 - (3) *third*, to the Cash Collateral Subaccount to be held or disbursed in accordance with **Section 6.6**.

2.7.3 Application during Event of Default. Notwithstanding anything to the contrary contained herein (including **Section 2.7.2**), upon the occurrence and during the continuance of an Event of Default, Lender, at its option, may apply any Collections then in the possession of Lender, Servicer or the Cash Management Account Bank (including any Reserve Funds on deposit in the Subaccounts) or the Rent Deposit Bank to the payment of the Debt in such order, proportion and priority as Lender may determine in its sole and absolute discretion. Lender’s right to withdraw and apply any of the foregoing funds shall be in addition to all other rights and remedies provided to Lender under the Loan Documents.

2.7.4 Payments Received in the Cash Management Account. Notwithstanding anything to the contrary contained in this Agreement or the other Loan Documents, and provided no Event of Default has occurred and is continuing, Borrower’s obligations with respect to the payment of the Monthly Debt Service Payment Amount and

amounts required to be deposited into the Reserve Funds, if any, shall be deemed satisfied to the extent sufficient amounts (taking into account the order and priority set forth in **Section 2.7.2**) are deposited in the Cash Management Account to satisfy such obligations pursuant to this Agreement on the dates each such payment is required, regardless of whether any of such amounts are so applied by Lender.

Section 2.8 Withholding Taxes.

(a) **Payments Free of Taxes.** Any and all payments by or on account of any obligation of Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law, including FATCA. If any applicable law, including FATCA, (as determined in the good faith discretion of Borrower) requires the deduction or withholding of any Tax from any such payment by Borrower, then Borrower shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by Borrower 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 2.8(a)**) Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) **Payment of Other Taxes by Borrower.** Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law any Other Taxes.

(c) **Indemnification by Borrower.** Borrower shall indemnify Lender, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Lender or required to be withheld or deducted from a payment to such Lender and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by Lender shall be conclusive absent manifest error.

(d) **Evidence of Payments.** As soon as practicable after any payment of Taxes by Borrower to a Governmental Authority pursuant to this **Section 2.8**, Borrower shall deliver to Lender 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 Lender.

(e) **Status of Borrower and Lenders.**

(i) Borrower shall not at any time make an election to be treated as a corporation for United States federal income tax purposes and shall maintain its tax status as either a “disregarded entity” or “partnership” for United States federal income tax purposes.

(ii) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to Borrower, at the time or times reasonably requested by Borrower, such properly completed and executed documentation reasonably requested by Borrower as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, Lender, if reasonably requested by Borrower, shall deliver such other documentation prescribed by applicable Legal Requirements or reasonably requested by Borrower as will enable Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in **Section 2.8(e)(iii)(A)**, **(iii)(B)** and **(iii)(D)**) shall not be required if in Lender’s reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(iii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to Borrower on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower), executed originals of IRS Form W-9 certifying that such Lender is exempt from United States federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower), whichever of the following is applicable:

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

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

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “**U.S. Tax Compliance Certificate**”) and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate, substantially in the form of Exhibit G-2 or Exhibit G-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; **provided**, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate, substantially in the Form of Exhibit G-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Borrower to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to Borrower at the time or times prescribed by law and at such time or times reasonably requested by Borrower such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower as may be necessary for Borrower to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment.

Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower in writing of its legal inability to do so.

(f) **Treatment of Certain Refunds.** If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this **Section 2.8** (including by the payment of additional amounts pursuant to this **Section 2.8**), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this **Section 2.8(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 2.8(f)**, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this **Section 2.8(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 indemnification payments or additional amounts giving rise to such refund had never been paid. This **Section 2.8(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) **Survival.** Each party's obligations under this **Section 2.8** shall survive any assignment of rights by, or the replacement of, a Lender and the repayment, satisfaction or discharge of all obligations under any Loan Document.

ARTICLE III - REPRESENTATIONS AND WARRANTIES

Section 3.1 General Representations. Borrower represents and warrants to Lender as of the Closing Date that, except to the extent (if any) disclosed on **Schedule III** with reference to a specific subsection of this **Section 3.1**:

3.1.1 Organization. Borrower has been duly organized and is validly existing with requisite power and authority to own its properties and to transact the businesses in which it is now engaged. Borrower is duly qualified to do business and in good standing in each jurisdiction where it is required to be so qualified in connection with its properties, businesses and operations, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect. Borrower possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to own its properties and to transact the businesses in which it is now engaged, except to the extent that failure to do so could not in the aggregate reasonably be expected to have a Material Adverse Effect. The sole business of Borrower is the acquisition, renovation, rehabilitation, ownership, maintenance, sale, transfer, financing, refinancing, management, leasing and operation of the Properties and other activity in furtherance thereof. Borrower is a Special Purpose Entity.

3.1.2 Proceedings. Borrower has taken all necessary action to authorize the execution, delivery and performance of this Agreement and each of the other Loan Documents to which it is a party. This Agreement and the other Loan Documents have been duly authorized, executed and delivered by Borrower and constitutes its legal, valid and binding obligation, enforceable against it in accordance with their respective terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law). The Loan Documents to which Borrower is a party are not subject to any right of rescission, set-off, counterclaim or defense by Borrower including the defense of usury, nor would the operation of any of the terms of such Loan Documents, or the exercise of any right thereunder, render such Loan Documents unenforceable, and Borrower has asserted any right of rescission, set-off, counterclaim or defense with respect thereto.

3.1.3 No Conflicts. The execution, delivery and performance of this Agreement and the other Loan Documents to which Borrower is a party (a) will not contravene its organizational documents, (b) will not result in any violation of the provisions of any Legal Requirement of any Governmental Authority having jurisdiction over it or any of its properties or assets, (c) will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under the terms of any indenture, mortgage, deed of trust, deed to secure debt, loan agreement, management agreement or other agreement or instrument to which it is a party or to, which any of its property or assets is subject, that would be reasonably expected to have a Material Adverse Effect and (d) except for Liens created under the Loan Documents, will not result in or require the creation or imposition of any Lien upon or with respect to any of its assets.

3.1.4 Litigation. There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other entity now pending or, to the actual knowledge of a Responsible Officer of Borrower, threatened in writing, against or affecting Borrower, which actions, suits or proceedings (a) involve the Loan Documents or the transactions contemplated thereby or (b) if adversely determined, would reasonably be expected to have a Material Adverse Effect. There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other entity that resulted in a judgment against Borrower that has not been paid in full that would otherwise constitute an Event of Default.

3.1.5 Agreements. Borrower is not a party to any agreement or instrument or subject to any restriction which would reasonably be expected to have a Material Adverse Effect. Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party which default would be expected to have a Material Adverse Effect. Other than the Loan Documents, neither Borrower nor Equity Owner has a material financial obligation (contingent or otherwise) under any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which either Borrower or Equity Owner is a party other than, with respect to Borrower, the Management Agreement, the Leases or any other agreement into which Borrower is permitted to enter pursuant to the terms of the Loan Documents.

3.1.6 Consents. No consent, approval, authorization or order of any court or Governmental Authority is required for the execution, delivery and performance by Borrower of, or compliance by Borrower with, this Agreement or the other Loan Documents to which it is a party or the consummation of the transactions contemplated hereby and thereby, other than those which have been obtained by Borrower.

3.1.7 Solvency. Borrower has (a) not entered into the transaction contemplated by this Agreement nor executed any Loan Document with the actual intent to hinder, delay or defraud any creditor and (b) received reasonably equivalent value in exchange for its obligations under the Loan Documents. After giving effect to the Loan, Borrower is Solvent. No petition in bankruptcy has been filed against Borrower in the last seven (7) years, and Borrower, in the last seven (7) years, has not made an assignment for the benefit of creditors or taken advantage of any insolvency act for the benefit of debtors. Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency laws or the liquidation of all or a major portion of such Person's assets or property, and to the actual knowledge of Borrower, no Person is contemplating the filing of any such petition against any Loan Party.

3.1.8 Other Debt. Neither Borrower nor Equity Owner has any Indebtedness other than, with respect to Borrower, Permitted Indebtedness, and with respect to Equity Owner, Equity Owner's Permitted Indebtedness.

3.1.9 Employee Benefit Matters.

(a) Assuming no portion of the assets used by Lender to fund the Loan constitutes the assets of an ERISA Plan, the assets of Borrower do not constitute "plan assets" of (i) any "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (ii) any "plan" (as defined in Section 4975 of the Code) that is subject to Section 4975 of the Code or (iii) any employee benefit plan or plan that is not subject to Title I of ERISA or Section 4975 of the Code but is subject to any law, rule or regulation applicable to Borrower which is substantially similar to the prohibited transaction provisions of Section 406 of ERISA or Section 4975 of the Code (each of **clauses (i), (ii) and (iii)**, an "**ERISA Plan**") with the result that the transactions contemplated by this

Agreement, including, but not limited to, the exercise by Lender of any rights under the Loan Documents will constitute a non-exempt prohibited transaction within the meaning of Section 406 of ERISA or Section 4975 of the Code. Neither Borrower nor any of its ERISA Affiliates sponsors, maintains or contributes to any Plans or Foreign Plans. Neither Borrower nor Equity Owner has any employees.

(b) Each Plan (and each related trust, insurance contract or fund) is in compliance in all material respects with its terms and with all applicable laws, including without limitation ERISA and the Code. Each Plan that is intended to be qualified under Section 401(a) of the Code as currently in effect has been determined by the IRS to be so qualified, and each trust related to any such Plan has been determined to be exempt from federal income tax under Section 501(a) of the Code as currently in effect, and no event has taken place which could reasonably be expected to cause the loss of such qualified status and exempt status. With respect to any Plan of Borrower or Equity Owner, the minimum funding standard under Section 412(a) of the Code and Section 302(a) of ERISA have been satisfied and all required minimum contributions paid and all required installments on or before the due dates under Section 430(j) of the Code and Section 303(j) of ERISA. Neither Borrower nor Equity Owner has filed, pursuant to Section 412(c) of the Code or Section 302(c) of ERISA, an application for a waiver of the minimum funding standard. Neither Borrower nor Equity Owner has incurred any liability to the PBGC which remains outstanding other than the payment of premiums, and there are no premium payments which have become due which are unpaid. No Plan of Borrower or Equity Owner is in "at risk" status within the meaning of Section 430(i) of the Code or Section 303(j) of ERISA. There are no existing, pending or threatened in writing claims (other than routine claims for benefits in the normal course), sanctions, actions, lawsuits or other proceedings or investigation involving any Plan to which Borrower or Equity Owner has incurred or otherwise has or could have an obligation or any liability. With respect to each Multiemployer Plan to which Borrower or Equity Owner is required to make a contribution, all required contributions and installments have been satisfied on or before the applicable due dates and have not incurred a complete or partial withdrawal under Section 4203 or 4205 of ERISA. No Plan Termination Event has or is reasonably expected to occur.

(c) Each Foreign Plan is in compliance in all material respects with all laws, regulations and rules applicable thereto and the respective requirements of the governing documents for such plan. The aggregate of the liabilities to provide all of the accrued benefits under each Foreign Plan does not exceed the current fair market value of the assets held in the trust or other funding vehicle for such plan. There are no actions, suits or claims (other than routine claims for benefits) pending or threatened against Borrower or Equity Owner with respect to any Foreign Plan.

3.1.10 Compliance with Legal Requirements. Each Loan Party is in compliance with all applicable Legal Requirements, except to the extent that any noncompliance would not reasonably be expected to have a Material Adverse Effect. No Loan Party is in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, except for any default or violation that would not reasonably be expected to have a Material Adverse Effect.

3.1.11 Financial Information. All financial data that have been delivered to Lender in connection with the Loan (a) are true, complete and correct in all material respects (or, to the extent that any such financial data was incorrect in any material respect when delivered, the same has been corrected by financial data subsequently delivered to Lender prior to the Closing Date), (b) accurately represent the financial condition of the Properties as of the date of such reports (or, to the extent that any such financial data did not accurately represent the financial condition of the Properties when delivered, the same has been corrected by financial data subsequently delivered to Lender prior to the Closing Date), and (c) have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein. The foregoing representation shall not apply to any such financial data that constitutes projections, *provided* that Borrower represents and warrants that such projections were made in good faith and that Borrower has no reason to believe that such projections were materially inaccurate. Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and would reasonably be expected to have a Material Adverse Effect, except as referred to or reflected in said financial statements. Borrower has no liabilities or other

obligations that arose or accrued prior to the Closing Date that would reasonably be expected to have a Material Adverse Effect. Borrower has no known material contingent liabilities.

3.1.12 Insurance. Borrower has obtained and delivered to Lender certificates evidencing the Policies required to be maintained under **Section 5.1.1**. All such Policies are in full force and effect, with all premiums prepaid thereunder. No claims have been made that are currently pending, outstanding or otherwise remain unsatisfied under any such Policies that would reasonably be expected to have a Material Adverse Effect. With respect to any Policy, neither Borrower nor, to Borrower's knowledge, any other Person, has done, by act or omission, anything which would impair the coverage of any of the Policies in any material respect.

3.1.13 Tax Filings. Borrower and Equity Owner have filed, or caused to be filed, on a timely basis all Tax returns (including, without limitation, all foreign, federal, state, local and other Tax returns) required to be filed by it, if any, is not liable for Non-Property Taxes payable by any other Person and has paid or made adequate provisions for the payment of all Non-Property Taxes (to the extent such Taxes, assessment and other governmental charges exceed \$100,000 in the aggregate) payable by such Person except as permitted by **Section 4.1.4** or **4.4.5**. All material recording or other similar taxes required to be paid by Borrower or Equity Owner under applicable Legal Requirements currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents have been paid.

3.1.14 Certificate of Compliance; Licenses. All certifications, permits, licenses and approvals, including without limitation, certificates of completion and occupancy, required of Borrower for the legal use, occupancy and operation of each Property have been obtained and are in full force and effect, except as would not reasonably be expected to have a Material Adverse Effect. The use being made of each Property is in conformity with the certificate of occupancy issued for such Property, if any.

3.1.15 Special Purpose Entity/Separateness.

(a) Since its formation, neither Borrower nor Equity Owner has conducted any business other than entering into and performing its obligations under the Loan Documents to which it is a party and as described in the definition of Special Purpose Entity herein. As of the Closing Date, neither Borrower nor Equity Owner owns or holds, directly or indirectly (i) any capital stock or equity security of, or any equity interest in, any Person other than a Loan Party or (ii) any debt security or other evidence of indebtedness of any Person, except for Permitted Investments and as otherwise contemplated by the Loan Documents. As of the Closing Date, Borrower does not have any subsidiaries.

(b) Any and all of the stated facts and assumptions made in the Insolvency Opinion, including, but not limited to, any exhibits attached thereto, will have been and shall be true and correct in all respects, and each Loan Party will have complied and will comply in all material respects, with all of the stated facts and assumptions made with respect to it in the Insolvency Opinion. Each entity other than a Loan Party with respect to which an assumption is made or a fact stated in any Insolvency Opinion will have complied and will comply, in all material respects, with all of the assumptions made and facts stated with respect to it in the Insolvency Opinion. Borrower covenants that in connection with any Additional Insolvency Opinion delivered in connection with this Agreement it shall provide an updated certification regarding compliance with the facts and assumptions made therein, which certificate shall be substantially similar to the representations made in this **Section 3.1.15(b)** and the definition of Special Purpose Entity.

(c) Borrower covenants and agrees that Borrower shall provide Lender with thirty (30) days' prior written notice prior to the removal of an Independent Director of Borrower or Equity Owner.

3.1.16 Management. The ownership, leasing, management and collection practices used by Borrower and Equity Owner with respect to the Properties have been in compliance with all applicable Legal Requirements, and all necessary licenses, permits and regulatory requirements pertaining thereto have been obtained and remain in full force and effect, except to the extent that any such noncompliance and/or any such failure would not reasonably be expected to have a Material Adverse Effect. The Management Agreement is in full force and effect and there is no

default thereunder by any party thereto and no event has occurred that, with the passage of time and/or the giving of notice would constitute a default thereunder.

3.1.17 Illegal Activity. None of the Properties has been purchased with proceeds of any illegal activity.

3.1.18 No Change in Facts or Circumstances; Disclosure. All information, reports, financial statements, exhibits and schedules furnished in writing by or on behalf of each Loan Party to Lender in connection with the negotiation, preparation or delivery of this Agreement and the other Loan Documents or included herein or therein or delivered pursuant hereto or thereto (but excluding any projections, forward looking statements, budgets, estimates and general market data as to which each Loan Party only represents and warrants that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time), when taken as a whole, as of the date furnished, 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 materially misleading. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that otherwise does or might result in a Material Adverse Effect.

3.1.19 Investment Company Act. Neither Borrower nor Equity Owner is an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended.

3.1.20 Federal Reserve Regulations. No part of the proceeds of the Loan will be used by Borrower or its Affiliates for the purpose of purchasing or acquiring any “margin stock” within the meaning of Regulation U of the Board of Governors of the Federal Reserve System (“**Margin Stock**”) or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Legal Requirements in any material respects or by the terms and conditions of this Agreement or the other Loan Documents. None of the Collateral is comprised of Margin Stock and less than twenty-five percent (25%) of the assets of Borrower and of Equity Owner are comprised of Margin Stock.

3.1.21 Bank Holding Company. Borrower is not a “bank holding company” or a direct or indirect subsidiary of a “bank holding company” as defined in the Bank Holding Company Act of 1956, as amended, and Regulation Y thereunder of the Board of Governors of the Federal Reserve System.

3.1.22 FIRPTA. Neither Borrower nor Equity Owner is a “foreign person” within the meaning of Section 1445(f)(3) of the Code.

3.1.23 Contracts.

(a) Borrower has not entered into, nor is bound by, any Major Contract which continues in existence, except those previously disclosed in writing to Lender.

(b) Each of the Major Contracts is in full force and effect, there are no material defaults by Borrower thereunder and, to the knowledge of Borrower, there are no monetary or other material defaults thereunder by any other party thereto. None of Borrower or any Affiliate of Borrower acting on Borrower’s behalf has given or received any notice of default under any of the Major Contracts that remains uncured or in dispute.

(c) Borrower has delivered copies of the Major Contracts (including all amendments and supplements thereto) to Lender that are true, correct and complete in all material respects.

(d) No Major Contract has as a party an Affiliate of Borrower.

3.1.24 Embargoed Person.

(a) None of Borrower, Equity Owner nor any of their respective officers, directors or members is a Person (or to Borrower's knowledge, controlled by a Person): (i) that is listed on a Government List, (ii) is otherwise subject to the provisions of Executive Order 13224 issued on September 24, 2001, (iii) has been previously indicted for or convicted of any felony involving a crime of moral turpitude or any Patriot Act Offense, or (iv) is currently under investigation by any Governmental Authority for alleged felony involving a crime of moral turpitude. For purposes hereof, the term "**Patriot Act Offense**" means any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) the Bank Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. "**Patriot Act Offense**" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense.

(b) At the time Borrower first entered into a Lease with each Tenant (excluding any Carry-Over Tenant), no such Tenant was listed on either of the Government Lists described in **Section 4.1.20**.

3.1.25 Perfection Representations.

(a) The Borrower Security Agreement and the Equity Owner Security Agreement create valid and continuing security interests (as defined in the applicable UCC) in the personal property Collateral in favor of Lender, which security interests are prior to all other Liens arising under the UCC, subject to Permitted Liens, and are enforceable as such against creditors of Borrower or Equity Owner, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity);

(b) All appropriate financing statements have been, or will simultaneously with the execution of this Agreement be, filed in the proper filing office in the appropriate jurisdictions under applicable law in order to perfect the security interest granted to Lender hereunder in the Collateral that may be perfected by filing a financing statement;

(c) Other than the security interest granted to Lender pursuant to the Loan Documents, neither Borrower nor Equity Owner has pledged, assigned, collaterally assigned, sold, granted a security interest in, or otherwise conveyed any of the Collateral except to the extent expressly permitted by the terms hereof. Neither Borrower nor Equity Owner has authorized the filing of or is aware of any financing statements against either Borrower or Equity Owner that include a description of the Collateral other than any financing statement relating to the security interest granted to Lender hereunder or that has been terminated.

(d) No instrument or document that constitutes or evidences any Collateral has any marks or notations indicating that they have been pledged, assigned or otherwise conveyed to any Person other than Lender.

(e) The grant of the security interest in the Collateral by each of Borrower and Equity Owner to Lender, pursuant to the Borrower Security Agreement and the Equity Owner Security Agreement is in the ordinary course of business for each such Person and is not subject to the bulk transfer or any similar statutory provisions in effect in any applicable jurisdiction.

(f) The chief executive office and the location of Borrower's and Equity Owner's records regarding the Collateral are listed on **Schedule IV**. Except as otherwise disclosed to Lender in writing, the legal name of each of Borrower and Equity Owner is as set forth in this Agreement, neither Borrower nor Equity Owner has changed its name since its formation. Except as otherwise listed on **Schedule IV**, neither Borrower nor Equity owner has tradenames, fictitious names, assumed names or "doing business as" names and each of Borrower's and Equity Owner's respective federal employer identification number and Delaware organizational identification number is set forth on **Schedule IV**.

Section 3.2 Property Representations. Borrower represents and warrants to Lender with respect to each Property as follows:

3.2.1 Property/Title.

(a) Borrower has good and marketable fee simple legal and equitable title to the real property comprising the Property, subject to Permitted Liens. The Mortgage Documents, when properly recorded and/or filed in the appropriate records, will create (i) a valid, first priority, perfected Lien on Borrower's interest in the Property, subject only to the Permitted Liens, and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to the Permitted Liens. The Permitted Liens with respect to the Property, in the aggregate, do not have an Individual Material Adverse Effect on such Property.

(b) All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid under applicable Legal Requirements in connection with the transfer of the Property to Borrower have been paid or are being paid simultaneously herewith. All mortgage, mortgage recording, stamp, intangible or other similar tax required to be paid under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Mortgage Documents with respect to such Property, including the Mortgages, have been paid or are being paid simultaneously herewith. All taxes and governmental assessments due and owing in respect of the Property have been paid, or an escrow of funds in an amount sufficient to cover such payments has been established hereunder or are insured against by the Title Insurance Policy and the Title Insurance Owner's Policy for such Property.

(c) Each Property is comprised of one (1) or more parcels which constitute separate tax lots and do not constitute a portion of any other tax lot not a part of such Property.

3.2.2 Adverse Claims. Borrower's ownership of the Property is free and clear of any Liens other than Permitted Liens.

3.2.3 Title Insurance Owner's Policy. Borrower has delivered to Lender either (a) a Title Insurance Owner's Policy insuring fee simple ownership of such Property by Borrower in an amount equal to or greater than the initial Allocated Loan Amount of the Property, issued by a title insurance company reasonably acceptable to Lender with no title exceptions other than Permitted Liens or (b) a marked or initialed binding commitment that is effective as a Title Insurance Owner's Policy in respect of such Property in an amount equal to or greater than the initial Allocated Loan Amount of the Property, issued by a title insurance company reasonably acceptable to Lender with no title exceptions other than Permitted Liens, which commitment shall be accompanied by such other affidavits, transfer declarations and other documents as are necessary for the recordation of the deed for such Property and issuance of such Title Insurance Owner's Policy.

3.2.4 Deed. Borrower has delivered to Lender a copy of a deed for such Property conveying the Property to Borrower, with vesting in the actual name of Borrower, and Borrower hereby certifies that such Property's deed has been recorded or presented to and accepted for recording by the applicable title insurance company issuing the related Title Insurance Owner's Policy or binding commitment referred to in **Section 3.2.3**, with all fees, premiums and deed stamps and other transfer taxes paid.

3.2.5 Mortgage File Required Documents. Borrower has delivered to Lender (a) either (i) certified or file stamped (in each case by the applicable land registry) original executed Mortgage Documents or (ii) a copy of the Mortgage Documents in recordable form that have been submitted by the title insurance company referred to in **Section 3.2.3** for recording in the jurisdiction in which such Property is located (with Lender and Borrower acknowledging that the Mortgage Documents delivered on the Closing Date consist solely of Mortgages (which include Assignments of Leases and Rents and fixture filings as a part thereof), and that no separate Assignments of Leases and Rents or Fixture Filings are included as part of the Mortgage Documents delivered at the Closing Date), (b) an opinion of counsel admitted to practice in the state in which such Property is located in form and substance reasonably satisfactory to Lender in respect of the enforceability of such Mortgage Documents and an opinion of

counsel in form and substance reasonably satisfactory to Lender stating that the Mortgage Documents were duly authorized, executed and delivered by Borrower and that the execution and delivery of such Mortgage Loan Documents and the performance by Borrower of its obligations thereunder will not cause a breach of, or a default under, any agreement, document or instrument to which Borrower is a party or to which it or such Property is bound, (c) either (x) a Title Insurance Policy insuring the Lien of the Mortgage encumbering such Property, or (y) a marked or initialed binding commitment that is effective as a Title Insurance Policy in respect of such Property, in each case, issued by the title insurance company referred to in **Section 3.2.3** with no title exceptions other than Permitted Liens, which commitment shall be accompanied by such other affidavits, transfer declarations and other documents specified in such commitment as necessary for the issuance of such Title Insurance Policy, and (d) evidence that all taxes, fees and other charges payable in connection therewith have been paid in full or delivered to escrow. Diligence Provider has delivered to Lender the Closing Date Diligence Provider Certificate.

3.2.6 Property Taxes and HOA Fees. There are no delinquent Property Taxes or HOA Fees outstanding with respect to the Property, other than Property Taxes or HOA Fees that may exist in accordance with Section 4.4.5. As of the Closing Date, except for any Property listed on Schedule VII for which no HOA estoppels have been obtained, there are no pending or, to Borrower's knowledge, proposed, special or other assessments for homeowner's association improvements affecting the Property that would reasonably be expected to have an Individual Material Adverse Effect with respect to the Property.

3.2.7 Compliance with Renovation Standards. Except if the Property is a Carry-Over Property or a Vacant Property, the Property satisfies the Renovation Standards and all renovations thereto have been conducted in accordance with applicable Legal Requirements, in all material respects.

3.2.8 Condemnation; Physical Condition. No Property has been condemned in whole or in part. No proceeding is pending or, to the knowledge of Borrower, threatened in writing for the condemnation of the Property. Each Property is in a good, safe and habitable condition and repair, and free of and clear of any damage or waste that has an Individual Material Adverse Effect on the Property.

3.2.9 Brokers. There is no commission or other compensation payable to any broker or finder in connection with the purchase of the Property by Borrower or its Affiliate that has not been paid.

3.2.10 Leasing. As of the Cut-Off Date, or, in case of any Substitute Property, as of the date such Property becomes a Substitute Property, either (a) the Property (other than those Leases which have deficiencies as set forth on **Schedule III** and the Vacant Properties set forth on **Schedule IX**) was leased by Borrower to an Eligible Tenant pursuant to an Eligible Lease and such Lease was in full force and effect and was not in default in any material respect or (b) if the Property is a Carry-Over Property, it was leased to a Carry-Over Tenant pursuant to a Lease and such Lease was in full force and effect and was not in default in any material respect; **provided**, that prior to entering into any new or renewal Lease with such Carry-Over Tenant Borrower shall have determined that such Carry-Over Tenant is not listed on a Government List. No Person (other than Borrower) has any possessory interest in the Property or right to occupy the same except any Tenant under and pursuant to the provisions of the applicable Lease and any Person claiming rights through any such Tenant. Except as set forth on **Schedule III**, the copy of such Eligible Lease for the Property (other than any Carry-Over Property or Vacant Property) delivered to Lender is true and complete in all material respects, there are no material oral agreements with respect thereto. Except as set forth on **Schedule III**, as of the Closing Date, no Rent (including security deposits) has been paid more than thirty (30) days in advance of its due date and all amounts set forth on **Schedule III** have been delivered to the Advance Rent Subaccount on or before the Closing Date. As of the Closing Date, any payments, free rent, partial rent, rebate of rent or other payments, credits, allowances or abatements required to be given by Borrower to the relevant Tenant has already been provided to such Tenant (including reductions in monthly Rent during the term of the related Lease or in other similar fashion).

3.2.11 Insurance. The Property is covered by property, casualty, liability, business interruption, windstorm, flood, earthquake and other applicable Policies as and to the extent, and in compliance with the applicable requirements of **Section 5.1.1** and Borrower has not taken (or omitted to take) any action that would impair or invalidate the coverage provided by any such Policies. As of the Closing Date, no claims have been made that are currently pending,

outstanding or otherwise remain unsatisfied under any such policies and would reasonably be expected to have an Individual Material Adverse Effect with respect to the Property.

3.2.12 Lawsuits, Etc. As of the Closing Date, there are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other entity pending or to Borrower's knowledge, threatened in writing against or affecting the Property, which actions, suits or proceedings would reasonably be expected to have an Individual Material Adverse Effect on such Property.

3.2.13 Orders, Injunctions, Etc. There are no orders, injunctions, decrees or judgments outstanding with respect to the Property that would reasonably be expected to have an Individual Material Adverse Effect on such Property.

3.2.14 Agreements Relating to the Properties. Borrower is not a party to any agreement or instrument or subject to any restriction which would reasonably be expected to have an Individual Material Adverse Effect on such Property. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which the Property is bound. Except for the Management Agreement, Borrower does not have a material financial obligation under any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument by which the Property is bound, other than obligations under the Loan Documents. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Lien with respect to any Property. No Property nor any part thereof is subject to any purchase options, rights of first refusal to purchase, rights of first offer to purchase or other similar rights in favor of any Tenant or other third parties.

3.2.15 Accuracy of Information Regarding Property. All information with respect to the Property included in the Properties Schedule is true, complete and accurate in all material respects. None of the Properties consist of housing cooperatives or manufactured housing.

3.2.16 Compliance with Legal Requirements. Each Property (including the leasing and intended use thereof) complies with all applicable Legal Requirements, including, without limitation, building and zoning ordinances and codes and all certifications, permits, licenses and approvals, including without limitation, certificates of completion and occupancy permits, required for the legal leasing, use, occupancy, habitability and operation of such Property, except as would not reasonably be expected to have an Individual Material Adverse Effect with respect to the Property. There is no consent, approval, permit, license, order or authorization of, and no filing with or notice to, any court or Governmental Authority required for the operation, use or leasing of the Property that has not been obtained, except as would not reasonably be expected to have an Individual Material Adverse Effect with respect to the Property. There has not been committed by Borrower or, to Borrower's knowledge, any other Person in occupancy of or involved with the operation, use or leasing of the Property any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof.

3.2.17 Utilities and Public Access. The Property has rights of access to public ways and is served by water, sewer or septic system, and storm drain facilities adequate to service the Property for its intended uses and all public utilities necessary or convenient to the full use and enjoyment of the Property are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded easements serving the Property and such easements are set forth in and insured by the applicable Title Insurance Owner's Policy and Title Insurance Policy and all roads necessary for the use of the Property for its intended purposes have been completed and dedicated to public use and accepted by all Governmental Authorities, except as would not reasonably be expected to have an Individual Material Adverse Effect with respect to the Property.

3.2.18 Eminent Domain. As of the Closing Date, there is no proceeding pending or, to Borrower's knowledge, threatened, for the total or partial Condemnation or for the relocation of roadways resulting in a failure of access to the Property on public roads.

3.2.19 Flood Zone. The Property is not located in an area identified by the Federal Emergency Management Agency as a special flood hazard area, or, if so located the flood insurance required pursuant to **Section 5.1.1(a)** is in full force and effect with respect to the Property.

3.2.20 Specified Liens. The Property is not subject to any Specified Lien at any time on or after the first anniversary of the Closing Date.

Section 3.3 Survival of Representations. Borrower agrees that all of the representations and warranties of Borrower set forth in **Article III** and elsewhere in this Agreement and in the other Loan Documents shall survive for so long as any amount remains owing to Lender under this Agreement or any of the other Loan Documents by Borrower. All representations, warranties, covenants and agreements made in this Agreement or in the other Loan Documents by Borrower shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

ARTICLE IV - BORROWER COVENANTS

Section 4.1 Affirmative Covenants. Borrower hereby covenants and agrees with Lender as follows:

4.1.1 Preservation of Existence. Borrower shall (a) observe all procedures required by its organizational documents and preserve and maintain its limited liability company, existence, rights, franchises and privileges in the jurisdiction of its organization, and (b) qualify and remain qualified in good standing (where relevant) as a foreign limited liability company in each other jurisdiction where the nature of its business requires such qualification and to the extent such concept exists in such jurisdiction except where, in the case of **clause (b)**, the failure to be so qualified would not reasonably be expected to have a Material Adverse Effect.

4.1.2 Compliance with Legal Requirements. Except with respect to the Properties and the use thereof (which is subject to **Section 4.4.4**), Borrower shall do all things necessary to preserve, renew and keep in full force and effect its rights, licenses and permits and to comply with all Legal Requirements applicable to it, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect. Borrower, at its expense, may contest by appropriate legal proceeding promptly initiated and conducted in good faith and with due diligence, the validity of any Legal Requirement, the applicability of any Legal Requirement to Borrower or any Property or any alleged violation of any Legal Requirement; **provided**, that (a) such proceeding shall be permitted under and be conducted in accordance with the provisions of any instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable Legal Requirements; (b) no Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; and (c) Borrower shall promptly upon final determination thereof comply with any such Legal Requirement determined to be valid or applicable or cure any violation of any Legal Requirement, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

4.1.3 Special Purpose Bankruptcy Remote Entity/Separateness.

(a) Borrower shall be and continue to be a Special Purpose Entity.

(b) Borrower shall comply in all material respects with all of the stated facts and assumptions made with respect to such persons in the Insolvency Opinion and each Additional Insolvency Opinion.

4.1.4 Non-Property Taxes. Borrower shall file, cause to be filed or obtain an extension of the time to file, all Tax returns for Non-Property Taxes and reports required by law to be filed by it and to promptly pay or cause to be paid all material Non-Property Taxes now or hereafter levied, assessed or imposed on it as the same become due and payable; **provided**, that, after prior written notice to Lender of its intention to contest any such Non-Property Taxes, Borrower may contest by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity of any such Non-Property Taxes and, in such event, may permit the Non-Property Taxes so contested to remain unpaid during any period, including appeals, when Borrower is in good faith contesting the same so long as (a) no Event of Default has occurred and remains uncured, (b) such proceeding shall be permitted under

and be conducted in accordance with all applicable Legal Requirements, (c) no Property or other Collateral nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, (d) Borrower has set aside on its books adequate reserves in accordance with GAAP, and the non-payment or non-discharge of such Non-Property Taxes would not reasonably be expected to have a Material Adverse Effect, (e) enforcement of the contested Non-Property Taxes is effectively stayed for the entire duration of such contest and no Lien is imposed on any Property or other Collateral, (f) any Non-Property Taxes determined to be due, together with any interest or penalties thereon, is promptly paid as required after final resolution of such contest, (g) to the extent such Non-Property Taxes (when aggregated with all other Taxes that Borrower is then contesting under this **Section 4.1.4** or **Section 4.4.5** and for which Borrower has not delivered to Lender any Contest Security) exceed \$1,000,000, Borrower shall deliver to Lender either (i) cash, or other security as may be approved by Lender, in an amount sufficient to insure the payment of any such Non-Property Taxes, together with all interest and penalties thereon or (ii) a payment and performance bond in an amount equal to one hundred percent (100%) of the contested amount from a surety acceptable to Lender in its reasonable discretion, (h) failure to pay such Non-Property Taxes will not subject Lender to any civil or criminal liability, (i) such contest shall not affect the ownership, use or occupancy of any Property or other Collateral, and (j) Borrower shall, upon request by Lender, give Lender prompt notice of the status of such proceedings and/or confirmation of the continuing satisfaction of the conditions set forth in clauses (a) through (i) of this **Section 4.1.4**. Notwithstanding the foregoing, Borrower shall pay any contested Non-Property Taxes (or, if cash or other security has been provided, Lender may pay over any such cash or other security held by Lender to the claimant entitled thereto) if, in Lender's reasonable judgment, any Property or other Collateral (or any part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost or there shall be any danger of the Lien of any Collateral Document being primed by any related Lien.

4.1.5 Access to the Properties. Subject to the rights of Tenants, Borrower shall permit agents, representatives and employees of Lender to inspect the Properties or any part thereof at reasonable hours upon reasonable advance notice.

4.1.6 Cooperate in Legal Proceedings. Borrower shall cooperate reasonably with Lender with respect to any proceedings before any court, board or other Governmental Authority which is reasonably likely to affect the rights of Lender hereunder or any rights obtained by Lender under any of the other Loan Documents and, in connection therewith, permit Lender, at its election by written notice, to participate in any such proceedings.

4.1.7 Perform Loan Documents. Borrower shall, in a timely manner, observe, perform and satisfy all the terms, provisions, covenants and conditions of the Loan Documents executed and delivered by, or applicable to, Borrower, and shall pay when due all costs, fees and expenses of Lender, to the extent required under the Loan Documents executed and delivered by, or applicable to, Borrower.

4.1.8 Award and Insurance Benefits. Borrower shall cooperate with Lender, in accordance with the relevant provisions of this Agreement, to enable Lender to receive the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with any Property, and Lender shall be reimbursed for any expenses reasonably incurred in connection therewith (including reasonable attorneys' fees and disbursements, and the payment by the Loan Parties of the reasonable expense of an appraisal on behalf of Lender in case of Casualty or Condemnation affecting any Property or any part thereof) out of such Insurance Proceeds.

4.1.9 Security Interest; Further Assurances. Borrower shall and shall cause Equity Owner to take all necessary action to establish and maintain, in favor of Lender a valid and perfected first priority security interest in all Collateral to the full extent contemplated herein, free and clear of any Liens other than Permitted Liens (including the filing of all financing statements or other similar instruments or documents necessary under the UCC (or any comparable law) of all appropriate jurisdictions to perfect Lender's security interest in the Collateral). Such financing statements may describe as the collateral covered thereby "all assets of the debtor, whether now owned or hereafter acquired" or words to that effect. Borrower shall and shall cause Equity Owner to, at such Person's sole cost and expense execute any and all further documents, financing statements, agreements, affirmations, waivers and instruments, and take all such further actions (including the filing and recording of financing statements) that may be required under any applicable Legal Requirement, or that Lender reasonably deems necessary or advisable, in

order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created hereby or by the Collateral Documents or the enforceability of any guaranty or other Loan Document.

4.1.10 Keeping of Books and Records. Borrower shall keep and maintain or shall cause to be kept and maintained on a calendar year basis, in accordance with the requirements for a Special Purpose Entity set forth herein and GAAP (or such other accounting basis acceptable to Lender), proper and accurate books, records and accounts reflecting all of the financial affairs of the Loan Parties and all items of income and expense in connection with the operation on an individual basis of each Property. Lender shall have the right from time to time at all times during normal business hours upon reasonable notice to examine such books, records and accounts at the office of Borrower or any other Person maintaining such books, records and accounts and to make such copies or extracts thereof as Lender shall desire. After the occurrence of an Event of Default, Borrower shall pay reasonable out-of-pocket costs and expenses incurred by Lender to examine each Loan Parties' accounting records with respect to the Properties, as Lender shall reasonably determine to be necessary or appropriate in the protection of Lender's interest.

4.1.11 Business and Operations. Borrower shall engage in the businesses conducted by it as and to the extent the same are necessary for the ownership, maintenance, sale, management, leasing and operation of the Properties. Borrower shall qualify to do business and will remain in good standing under the laws of each jurisdiction as and to the extent the same are required for the ownership, maintenance, management and operation of the Properties, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect. Borrower shall, at all times during the term of the Loan, continue to own or lease all equipment, fixtures and personal property which are necessary to operate its Properties.

4.1.12 Loan Proceeds. Borrower shall use the proceeds of the Loan received by it on the Closing Date only for the purposes set forth in **Section 2.1.5** and **Section 2.1.6**.

4.1.13 Performance by Borrower. Borrower shall, in a timely manner, observe, perform and fulfill each and every covenant, term and provision of each Loan Document executed and delivered by, or applicable to, Borrower, and shall not enter into or otherwise suffer or permit any amendment, waiver, supplement, termination or other modification of any Loan Document executed and delivered by, or applicable to, Borrower, without the prior written consent of Lender.

4.1.14 Leasing Matters. Borrower shall (a) observe and perform the obligations imposed upon the lessor under the Leases for the Properties in a commercially reasonable manner; and (b) enforce the terms, covenants and conditions contained in such Leases upon the part of the Tenant thereunder to be observed or performed in a commercially reasonable manner except in each case to the extent that the failure to do so would not reasonably be expected to have an Individual Material Adverse Effect with respect to a Property.

4.1.15 Borrower's Operating Account. Borrower shall establish and maintain an account (the "**Borrower's Operating Account**") at a bank selected by Borrower and reasonably approved by Lender which shall be an Eligible Institution. Borrower may also establish and maintain subaccounts of Borrower's Operating Account (which may be ledger or book entry accounts and not actual accounts).

4.1.16 Security Deposits.

(a) All security deposits of Tenants, whether held in cash or any other form, shall be deposited into one or more Eligible Accounts (each a "**Security Deposit Account**") established and maintained by Borrower at a local bank which shall be an Eligible Institution, held in compliance with all Legal Requirements and identified by written notice to Lender, and shall not be commingled with any other funds of Borrower. Borrower shall deposit all security deposits in its possession on the Closing Date into the Security Deposit Account. Within three (3) Business Days after receipt of any security deposit, Borrower shall deposit the same into the Security Deposit Account (except only as provided below with respect to combined payments). Except for deposits of *de minimis* Borrower funds to maintain a minimum balance or to pay fees of the depository bank, Borrower shall insure that no funds from any source shall be deposited into the Security Deposit Account other than security deposits relating to the Properties and interest paid thereon, and no funds shall be withdrawn except, in accordance with Legal Requirements, (i) to

pay refunds of security deposits, (ii) to pay (or reimburse for payment of) expenses chargeable against security deposits or (iii) to transfer forfeited security deposits to the Rent Deposit Account or Cash Management Account. Borrower shall maintain complete and accurate books and records of all transactions pertaining to security deposits and the Security Deposit Account, with sufficient detail to identify all security deposits separate and apart from other payments received from or by Tenants. Only if Borrower receives a check or other payment that combines a security deposit together with Rent or other amounts owing by a Tenant, then Borrower shall (a) deposit the combined payment into the Rent Deposit Account or Cash Management Account or (b) deposit the amount representing the security deposit into the Security Deposit Account and the amount representing Rent into the Rent Deposit Account. Promptly after the deposit of any combined payment into the Rent Deposit Account or Cash Management Account, Borrower shall submit written notice to Lender identifying the applicable combined payment and requesting return of the security deposit amount from the Cash Management Account, and when the same is paid, Borrower promptly shall deposit the same into the Security Deposit Account within three (3) Business Days after receipt.

(b) Any bond or other instrument which Borrower is permitted to hold in lieu of cash security deposits under applicable Legal Requirements (i) shall be, subject to the applicable Lease and Legal Requirements, maintained in full force and effect in the full amount of such deposits unless replaced by cash deposits as above described, (ii) shall be issued by an institution reasonably satisfactory to Lender, (iii) shall, if permitted pursuant to Legal Requirements, name Lender as payee or mortgagee thereunder (or at Lender's option, be fully assignable to Lender), and (iv) shall in all respects comply with applicable Legal Requirements and otherwise be satisfactory to Lender. Borrower shall, upon request, provide Lender with evidence reasonably satisfactory to Lender of Borrower's compliance with the foregoing.

(c) Upon Lender's written request during an Event of Default, Borrower shall deliver (or cause to be delivered) all security deposits to Lender for safe-keeping, and not for application against the Debt. Upon a foreclosure of any Property or transfer in lieu thereof, Borrower shall deliver to Lender or to an account designated by Lender the security deposits applicable to such Property for safe-keeping and not for application to the Debt.

4.1.17 Investment of Funds in Cash Management Account, Subaccounts, Rent Deposit Account and Security Deposit Account.

Sums on deposit in the Cash Management Account and the Subaccounts may be invested in Permitted Investments. Borrower shall have the right to direct Cash Management Account Bank to invest sums on deposit in the Cash Management Account and the Subaccounts in Permitted Investments. The Cash Management Account shall be assigned the federal tax identification number of Borrower. Sums on deposit in the Rent Deposit Account shall not be invested in Permitted Investments and shall be held solely in cash. Subject to any requirements of applicable law, sums on deposit in a Security Deposit Account may be invested in Permitted Investments and Borrower shall have the right to direct the applicable Security Deposit Bank to invest sums on deposit in such Security Deposit Account in Permitted Investments. The amount of actual losses sustained on a liquidation of a Permitted Investment in the Cash Management Account, a Subaccount or a Security Deposit Account shall be deposited into the Cash Management Account, the applicable Subaccount or the applicable Security Deposit Account, as applicable, by Borrower no later than one (1) Business Day following such liquidation. Borrower shall pay any federal, state or local income or other tax applicable to income earned from Permitted Investments.

4.1.18 Operation of Property.

(a) Borrower shall (i) cause the Manager to manage the Properties in accordance with the Management Agreement, (ii) diligently perform and observe all of the terms, covenants and conditions of the Management Agreement on the part of Borrower to be performed and observed, (iii) promptly notify Lender of any default under the Management Agreement of which it is aware; **provided, however,** that, no such notice is required pursuant to this clause (iii) if (A) the loss or damage from such default under the Management Agreement does not exceed \$50,000 and (B) Borrower determines, in good faith, that such default will not adversely affect the management of any of the Properties or the interests of Lender in such Properties and (iv) promptly enforce the performance and observance of all of the covenants required to be performed and observed by the Manager under the Management Agreement in a commercially reasonable manner. If Borrower shall default in the performance or observance of any material term, covenant or condition of the Management Agreement on the part of Borrower to be performed or

observed, then, without limiting Lender's other rights or remedies under this Agreement or the other Loan Documents, and without waiving or releasing Borrower from any of its obligations hereunder or under the Management Agreement, Lender shall have the right, but shall be under no obligation, to pay any sums and to perform any act as may be appropriate to cause all the material terms, covenants and conditions of the Management Agreement on the part of Borrower to be performed or observed. Except to the extent payable in accordance with **Section 2.7.2(j)**, in no event shall the management fee payable to the Manager for any calendar month exceed the Management Fee Cap for such calendar month and in no event shall Borrower pay or become obligated to pay to the Manager, any transition or termination costs or expenses, termination fees, or their equivalent in connection with the Transfer of a Property or the termination of the Management Agreement. For the avoidance of doubt, for purposes of this Agreement, management fees shall not be deemed to include leasing commissions and reimbursements of expenses paid to Manager in the ordinary course of Borrower's business.

(b) If any one or more of the following events occurs: (i) during the continuance of an Event of Default, (ii) if the Manager shall be in material default under the Management Agreement beyond any applicable notice and cure period (including as a result of any gross negligence, fraud, willful misconduct or misappropriation of funds), or (iii) if Manager shall become insolvent or a debtor in any bankruptcy or insolvency proceeding, then Lender shall have the right to require Borrower to replace the Manager and enter into a Replacement Management Agreement with (x) a Qualified Manager selected by Borrower that is not an Affiliate of Borrower or (y) another property manager chosen by Borrower and approved by Lender. If Borrower fails to select a new Qualified Manager or a replacement Manager that satisfies the conditions described in the foregoing **clause (y)** and enter into a Replacement Management Agreement with such Person within sixty (60) days of Lender's demand to replace the Manager, then Lender may choose the replacement property manager provided that such replacement property manager is a Qualified Manager or satisfies the conditions set forth in *proviso* of the foregoing **clause (y)**.

4.1.19 Anti-Money Laundering. Borrower shall comply in all material respects with all applicable anti-money laundering laws and regulations, including without limitation the Patriot Act (collectively, the "**Anti-Money Laundering Laws**"). Borrower shall (a) conduct, in accordance with its anti-money laundering program compliance program, the requisite due diligence in connection with renewals of, and new, Leases and renewing and prospective Tenants for purposes of the Anti-Money Laundering Laws, including with respect to the legitimacy of the applicable renewing or prospective Tenant and the origin of the assets used by said Tenant to lease the applicable Property and (b) will maintain sufficient information to identify the renewing and prospective Tenants for purposes of the Anti-Money Laundering Laws. The Manager has established an anti-money laundering compliance program as required by the Anti-Money Laundering Laws, with respect to the Tenants and the Properties and has conducted the requisite due diligence with respect to the existing Leases for purposes of such Anti-Money Laundering Laws, including with respect to the legitimacy of the applicable renewing or prospective Tenant and the origin of the assets used by said Tenant to lease the applicable Property. Borrower shall provide notice to Lender, within five (5) Business Days, of receipt of any written notice of any Anti-Money Laundering Law violation or action involving a Loan Party.

4.1.20 Embargoed Persons. Prior to entering into a Lease with a prospective Tenant (excluding any existing Tenant of a Property that was previously screened in accordance with this **Section 4.1.20**), Borrower shall confirm that such prospective Tenant is not a Person whose name appears on a Government List. Borrower shall not enter into a Lease with a Person whose name appears on a Government List unless Borrower determines that such Person is not the terrorist, narcotics trafficker or other Person who is identified on such Government List but merely has the same name as such Person. If notwithstanding such confirmation, a Responsible Officer of a Loan Party obtains knowledge that a Tenant is a Person whose name appears on a Government List, it shall promptly provide notice of such fact to Lender within five (5) Business Days of acquiring knowledge thereof.

4.1.21 ERISA Matters. Borrower shall and shall cause each of its ERISA Affiliates to establish, maintain and operate all Plans to comply in all material respects with the provisions of ERISA, the Code and all applicable laws, the regulations and interpretation thereunder and the respective requirements of the governing documents for such Plans. Borrower shall and shall cause each of its ERISA Affiliates to establish, maintain and operate all Foreign Plans to comply in all material respects with all laws, regulations and rules applicable thereto and the respective requirements of the governing documents for such plans.

Section 4.2 Negative Covenants. Borrower covenants and agrees with Lender as follows:

4.2.1 Operation of Property. Borrower shall not (a) surrender, terminate, cancel, modify, renew or extend the Management Agreement, **provided**, that Borrower may, without Lender's consent, (i) replace Manager so long as the replacement manager is a Qualified Manager pursuant to a Replacement Management Agreement and (ii) renew and extend the Management Agreement pursuant to the terms thereof, (b) enter into any other agreement relating to the management or operation of a Property with Manager or any other Person. If at any time Lender consents to the appointment of a new property manager or a Qualified Manager is appointed, such new property manager (including a Qualified Manager) shall execute a Replacement Management Agreement, (c) consent to the assignment by Manager of its interest under the Management Agreement, or (d) waive or release any of its rights and remedies under the Management Agreement, in each case without the express consent of Lender, which consent shall not be unreasonably withheld. For the avoidance of doubt, for purposes of **subclause (iii)** above, payments for services provided during the termination notice period of a sub-management agreement shall not constitute a termination penalty.

4.2.2 Indebtedness. Borrower shall not create, incur, assume or suffer to exist any Indebtedness other than (a) the Debt, and (b) unsecured trade payables incurred in the ordinary course of business relating to the ownership and operation of the Properties, which in the case of such unsecured trade payables (i) are not evidenced by a note, (ii) do not exceed, at any time, on an aggregate basis, a maximum aggregate amount of three percent (3%) of the Loan then outstanding and (iii) are paid within sixty (60) days of the date incurred (collectively, "**Permitted Indebtedness**"). Borrower shall cause Equity Owner not to create, incur, assume or suffer to exist any Indebtedness other than Indebtedness incurred under the Equity Owner Guaranty and the other Loan Documents to which Equity Owner is a party and unsecured trade payables incurred in the ordinary course of business with respect to the Equity Owner, related to the ownership of membership interest in Borrower and that (A) are not evidenced by a note, (B) do not exceed, at any time, \$25,000 and (C) are paid within sixty (60) days of the date incurred (collectively, the "**Equity Owner's Permitted Indebtedness**"). For the purposes of this **Section 4.2.2**, Property Taxes and HOA Fees are not Indebtedness.

4.2.3 Liens. Borrower shall not and shall cause Equity Owner not to create or suffer to exist any Liens upon or with respect to, any Collateral (other than any Property) except for Permitted Liens.

4.2.4 Limitation on Investments. Borrower shall not and shall cause Equity Owner not to make or suffer to exist any loans or advances to, or extend any credit to, purchase any property or asset or make any investment (by way of transfer of property, contributions to capital, purchase of stock or securities or evidences of indebtedness, acquisition of the business or assets, or otherwise) in, any Affiliate or any other Person except for acquisition of the Properties and related Collateral and Permitted Investments.

4.2.5 Limitation on Issuance of Equity Interests. Borrower shall not issue or sell or enter into any agreement or arrangement for the issuance and sale of any Equity Interests of Borrower.

4.2.6 Restricted Junior Payments. Borrower shall not make any Restricted Junior Payment; **provided**, that Borrower may make Restricted Junior Payments so long as (a) no Default or Event of Default shall then exist or would result therefrom, (b) such Restricted Junior Payments have been approved by all necessary action on the part of Borrower and in compliance with all applicable laws and (c) such Restricted Junior Payments are paid from Unrestricted Cash.

4.2.7 Principal Place of Business, State of Organization. Borrower shall not change its name, identity (including its trade name or names), jurisdiction of organization or formation (as set forth in **Section 3.1.25**) or Borrower's limited liability company structure (including any modification, amendment, waiver, or termination of its organizational documents) unless Borrower shall have first notified Lender in writing of such change at least thirty (30) days prior to the effective date of such change, and shall have first taken all action required by Lender for the purpose of perfecting or protecting the lien and security interests of Lender pursuant to this Agreement, and the other Loan Documents and, in the case of a change in Borrower's or Equity Owner's structure, without first obtaining the prior written consent of Lender, which consent may be given or denied in Lender's sole discretion. Upon Lender's

request, Borrower shall execute and deliver additional security agreements and other instruments which may be necessary to effectively evidence or perfect Lender's security interest in the Collateral as a result of such change of principal place of business or place of organization. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, writings, plans, specifications and schematics, will continue to be the address of Borrower set forth in **Section 9.3** (unless Borrower notifies Lender in writing at least thirty (30) days prior to the date of such change). Borrower shall promptly notify Lender of any change its organizational identification number.

4.2.8 Dissolution. Borrower shall not (a) engage in any dissolution, liquidation or consolidation or merger with or into any other business entity, (b) transfer, lease or sell, in one transaction or any combination of transactions, the assets or all or substantially all of its properties or assets except to the extent permitted by the Loan Documents or (c) modify, amend, waive or terminate its organizational documents or its qualification and good standing in any jurisdiction, except to the extent permitted by **Section 4.2.7**.

4.2.9 Change In Business. Borrower shall not enter into any line of business other than the acquisition, renovation, ownership, maintenance, transfer, refinancing, holding, marketing, sale, leasing, transfer, management, leasing, operation or financing of the Properties (and any businesses ancillary or related thereto), or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business. Borrower shall cause Equity Owner to not engage in any activity other than acting as the sole member of Borrower (and any business ancillary or related thereto).

4.2.10 Debt Cancellation. Other than respect to any Lease, Borrower shall not cancel or otherwise forgive or release any material claim or debt owed to Borrower by any Person, except for adequate consideration and in the ordinary course of Borrower's business.

4.2.11 Changes to Accounts. Borrower shall not (a) open or permit to remain open any cash, securities or other account with any bank, custodian or institution into which Rents or other Collections or any security deposits are deposited other than the Cash Management Account, the Subaccounts, the Rent Deposit Account, and Security Deposit Accounts, (b) change or permit to change any account number of any of the foregoing accounts, (c) open or permit to remain open any sub-account of the Cash Management Account (except any Subaccount) or the Rent Deposit Account, (d) permit any funds of Persons other than Borrower to be deposited or held in any of the Cash Management Account, the Subaccounts, the Rent Deposit Account or the Security Deposit Accounts, other than security deposits, or (e) permit any Collections or other proceeds of any Properties to be deposited or held in Borrower's Operating Account other than cash that is distributed to Borrower pursuant to **Section 2.7.2(k)**.

4.2.12 Zoning. Borrower shall not initiate or consent to any zoning reclassification of any portion of any Property or seek any variance under any existing zoning ordinance or use or knowingly permit any non-conforming use of any Property under any zoning ordinance or any other applicable land use law, rule or regulation, without the prior written consent of Lender.

4.2.13 No Joint Assessment. Borrower shall not suffer, permit or initiate the joint assessment of any Property (a) with any other real property constituting a tax lot separate from such Property, and (b) which constitutes real property with any portion of such Property which may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to such real property portion of such Property.

4.2.14 Limitation on Transactions with Affiliates. Borrower shall not and shall cause Equity Owner not to enter into, or be a party to any transaction with any Affiliate of the Loan Parties, except for: (a) the Loan Documents; (b) capital contributions by (i) Parent to Equity Owner or (ii) Equity Owner to Borrower; (c) Restricted Junior Payments which are in compliance with **Section 4.2.6**; (d) Transfers that are Permitted Transfers; and (e) to the extent not otherwise prohibited under this Agreement, other transactions upon fair and reasonable terms materially no less favorable to Borrower or Equity Owner than would be obtained in a comparable arm's-length transaction with a Person not an Affiliate.

4.2.15 ERISA. None of the Loan Parties or their ERISA Affiliates shall establish or be a party to any employee benefit plan within the meaning of Section 3(2) of ERISA that is a defined benefit pension plan that is subject to Part III of Subchapter D, Chapter 1, Subtitle A of the Code.

4.2.16 No Embargoed Persons. At all times throughout the term of the Loan, Borrower shall ensure that (a) none of its funds or other assets shall constitute property of, or shall be beneficially owned, directly or indirectly, by any Person subject to trade restrictions under United States law, including, but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder, with the result that the investment in Borrower (whether directly or indirectly), would be prohibited by law (each, an “**Embargoed Person**”), or the Loan made by Lender would be in violation of law, (b) no Embargoed Person shall have any direct interest in Borrower with the result that the investment in Borrower (whether directly or indirectly), would be prohibited by law or the Loan would be in violation of law, and (c) none of Borrower’s funds shall be derived from any unlawful activity with the result that the investment in Borrower (whether directly or indirectly), would be prohibited by law or the Loan would be in violation of law.

4.2.17 Transfers.

(a) Borrower acknowledges that Lender has examined and relied on the experience of Borrower and Parent in owning and operating properties such as the Properties in agreeing to make the Loan, and will continue to rely on Borrower’s ownership of the Properties as a means of maintaining the value of the Properties as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Properties so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Properties.

(b) Except for Permitted Transfers, Transfers otherwise set forth in this **Section 4.2.17**, and other Transfers made with the prior written consent of Lender, Borrower shall not, and shall not permit any other Person having a direct or indirect ownership or beneficial interest in Borrower to sell, convey, mortgage, grant, bargain, encumber, pledge, assign, grant options with respect to or otherwise transfer or dispose of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) (i) any Property or any part thereof or any legal or beneficial interest therein, or (ii) any interest, direct or indirect, in Borrower or Equity Owner or any legal or beneficial interest therein (a “**Transfer**”).

(c) A Transfer shall include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell one or more Properties or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower leasing all or a substantial part of any Property for other than actual occupancy by a Tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower’s right, title and interest in and to any Leases or any Rents; (iii) if a Restricted Party is a corporation, any merger, consolidation or Transfer of such corporation’s stock or the creation or issuance of new stock; (iv) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Transfer of the partnership interest of any general partner or any profits or proceeds relating to such partnership interest, or the Transfer of limited partnership interests or any profits or proceeds relating to such limited partnership interest or the creation or issuance of new limited partnership interests; (v) if a Restricted Party is a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Transfer of the membership interest of a managing member (or if no managing member, any member) or any profits or proceeds relating to such membership interest, or the Transfer of non-managing membership interests or the creation or issuance of new non-managing membership interests; or (vi) if a Restricted Party is a trust or nominee trust, any merger, consolidation or the Transfer of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests.

(d) Notwithstanding the foregoing, the following Transfers (herein, the “**Permitted Transfers**”) shall be permitted hereunder without Lender’s consent:

- (i) Leases existing as of the Closing Date and Eligible Lease entered into in accordance with the Loan Documents;
- (ii) a Permitted Lien or any other Lien expressly permitted under the terms of the Loan Documents;
- (iii) a Transfer of a Property in accordance with **Section 2.5**;
- (iv) a substitution of a Property for a Substitute Property in accordance with **Section 2.4.2** or **Section 5.3(b)**, as

applicable;

(v) the (A) Transfer of any direct or indirect legal or beneficial interests in Parent or any Public Vehicle, including a Public Vehicle that exists on the Closing Date, a Public Vehicle which acquires a direct or indirect legal or beneficial interest in Borrower and Equity Owner after the Closing Date in accordance with the terms of this **Section 4.2.17** or a Person which holds a direct or indirect legal or beneficial interest in Borrower and subsequently becomes a Public Vehicle or (B) merger, consolidation, sale of all or substantially all of the assets, or similar transaction involving Parent or any Public Vehicle, *provided* that, in the case of the Parent, any successor or acquirer assumes all the obligations of the Parent under the Loan Documents and is a Qualified Transferee;

(vi) a Transfer of any direct or indirect interest in Borrower or Equity Owner not described in the foregoing **clause (v)** provided, that:

(A) after giving effect to such Transfer, either (i) a Qualified Transferee (x) shall own not less than fifty-one percent (51%) of the direct or indirect legal and beneficial interests in Borrower and Equity Owner and (y) shall Control (directly or indirectly) Borrower and Equity Owner or (ii) in the case of a transfer of interests in Parent or limited liability company interests in Equity Owner, Parent shall continue to Control (directly or indirectly) each other Loan Party;

(B) if a Transfer is made pursuant to this **clause (vi)** and such Transfer shall cause more than ten percent (10%) of the direct or indirect legal or beneficial interests in Borrower or Equity Owner to be owned by any Person and its Affiliates that owned less than ten percent (10%) of the direct or indirect legal or beneficial interests in such Loan Party prior to such Transfer, then Lender shall receive notice of such Transfer not less than (x) if the Qualified Transferee referenced in **clause (A)** above is not a Parent or a one hundred percent (100%) owned subsidiary of the Parent, ten (10) Business Days prior to the consummation thereof or (y) if the Qualified Transferee referenced in **clause (A)** above is a Parent or a one hundred percent (100%) owned subsidiary of any Parent, thirty (30) days following the consummation thereof, but the failure to deliver the notice referred to in this clause (y) shall not constitute an Event of Default unless such failure continues for ten (10) Business Days following notice of such failure from Lender;

(C) each of Borrower and Equity Owner shall each continue to be a Special Purpose Entity;

(D) after giving effect to such Transfer, (i) Equity Owner shall remain the sole member of Borrower;

(E) the Properties shall continue to be managed by Existing Manager or by a Qualified Manager pursuant to a Replacement Management Agreement;

(F) if such Transfer shall cause more than forty-nine percent (49%) of the direct or indirect interests in Borrower or Equity Owner to be owned by any Person and its Affiliates that owned less than forty-nine percent (49%) of the direct or indirect interest in such Loan Party prior to such Transfer, Borrower shall deliver (or cause to be delivered) to Lender an Additional Insolvency Opinion;

(G) so long as the Loan is outstanding, (A) no pledge or other encumbrance of any direct interests in any Restricted Party (other than pledges securing the Obligations pursuant to the Collateral Documents) shall occur, and (B) no Restricted Party shall issue preferred equity that has the characteristics of mezzanine debt (such as a fixed maturity date, regular payments of interest, a fixed rate of return and rights of the equity holder to demand repayment of its investment);

(H) Borrower shall provide Lender with copies of all organizational documents and all transaction documents relating to any Transfer under this **clause (vi)** involving a direct legal or beneficial interest in any Restricted Party; and

(I) In connection with any Transfer under this **clause (vi)**, to the extent a transferee shall own ten percent (10%) or more of the direct or indirect ownership interests in Borrower or Equity Owner immediately following such transfer (provided such transferee owned less than ten percent (10%) of the direct or indirect ownership interests in such Loan Party as of the Closing Date), Borrower shall deliver (and Borrower shall be responsible for any reasonable out of pocket costs and expenses in connection therewith), customary searches reasonably requested by Lender in writing (including credit, judgment, lien, litigation, bankruptcy, criminal and watch list) reasonably acceptable to Lender with respect to such transferee; or

(vii) the Condemnation of a Property.

(e) Following a Permitted Transfer, if Parent no longer Controls (directly or indirectly) Borrower or the Properties, Parent shall, upon its written request, be released from the Recourse Guaranty for all liability accruing after the date of such Transfer, **provided** that the Qualified Transferee or the Person described in clause (ii)(A) of the definition of Qualified Transferee shall execute and deliver to Lender a replacement guaranty in substantially the same form and substance as the Recourse Guaranty covering all liability accruing from and after the date of such Transfer (but not any which may have accrued prior thereto).

(f) Borrower shall pay all reasonable out-of-pocket costs and expenses of Lender in connection with any Transfer, whether or not such Transfer is deemed to be a Permitted Transfer, including, without limitation, all reasonable fees and expenses of Lender's counsel.

Section 4.3 Reporting Covenants. Borrower shall, unless Lender shall otherwise consent in writing, furnish or cause to be furnished to Lender the following reports, notices and other documents:

4.3.1 Financial Reporting. Borrower shall furnish the following financial reports to Lender:

(a) As soon as available and in any event within sixty (60) days after the end of the first three calendar quarters of each year, commencing with the first calendar quarter ending March 31, 2019, consolidated balance sheets, statements of operations and retained earnings, and statements of cash flows of Borrower, in each case, as of the end of such quarter and for the period commencing at the end of the immediately preceding calendar year and ending with the end of such quarter, setting forth in each case in comparative form the figures for the corresponding date or period of the immediately preceding calendar year (if any), all in reasonable detail and prepared in accordance with GAAP, except that prior period comparative financial statements related to any time period prior to the Closing Date shall not be required. Such financial statements shall contain such other information as shall be reasonably requested by Lender for purposes of calculations to be made by Lender pursuant to the terms hereof;

(b) As soon as available, and in any event within ninety (90) days after the end of each calendar year, commencing with the calendar year ended December 31, 2018, unaudited copies of a balance sheet, statement of operations and retained earnings, and statement of cash flows of Borrower, in each case, as at the end of such calendar year, setting forth in each case in comparative form the figures for the immediately preceding calendar year (if any), except that prior period comparative financial statements related to any time period prior to the Closing Date shall not be required, all in reasonable detail and, from and after January 1, 2019, prepared in accordance with GAAP and the inclusion of all critical footnotes to the extent required by GAAP;

(c) As soon as available, and in any event within forty-five (45) days after the end of each calendar month, commencing with the calendar month ending December 31, 2018, (i) an operating statement in respect of such calendar month and a calendar year-to-date operating statement for Borrower, except that the operating statement shall not be required to relate to any time period prior to the Closing Date, (ii) an Officer's Certificate certifying that such operating statements are true, correct and complete in all material respects as of their respective dates, and (iii) upon Lender's request, other information maintained by Borrower in the ordinary course of business that is reasonably necessary and sufficient to fairly represent the financial position, ongoing maintenance and results of operation of the Properties (on a combined basis) during such calendar month;

(d) Simultaneously with the delivery of the financial statements of Borrower required by **clauses (a) and (b)** above an Officer's Certificate certifying (i) that such statements fairly represent the financial condition and results of operations of Borrower as of the end of such quarter or calendar year (as applicable) and the results of operations and cash flows of Borrower for such quarter or calendar year (as applicable), in accordance with GAAP (for the period from and after January 1, 2019) applied in a manner consistent with that of the most recent financial statements of Borrower furnished to Lender, subject to normal year-end adjustments and the absence of footnotes, (ii) stating that such Responsible Officer has reviewed the provisions of this Agreement and the other Loan Documents and has made or caused to be made under his or her supervision a review of the condition and operations of the Loan Parties with a view to determining whether the Loan Parties are in compliance with the provisions of the Loan Documents to the extent applicable to them, and that such review has not disclosed, and such Responsible Officer has no knowledge of, the existence of an Event of Default or Default or, if an Event of Default or Default exists, describing the nature and period of existence thereof and the action which the Loan Parties propose to take or have taken with respect thereto and (iii) that as of the date of each Officer's Certificate, no litigation exists involving Borrower (or any Property or Properties) in which the potential liability of Borrower in such claim or series of related claims thereunder (including claims brought as a class action) is greater than \$500,000 or, if involving any single Property, is greater than \$250,000, in each case, excluding any liability covered by insurance, or, if so, specifying such litigation and the actions being taking in relation thereto.

(e) Simultaneously with the delivery of the financial statements of Borrower required by **clause (a)** above, a calculation of Underwritten Net Cash Flow for the twelve (12) month period ended on the last day of the calendar quarter for which such financial statements were prepared;

(f) Simultaneously with the delivery of the financial statements of Borrower required by **clause (a)** above, a duly completed Compliance Certificate, with appropriate insertions, containing the data and calculations set forth on **Exhibit B**; and

(g) Simultaneously with the delivery of the financial statements of Borrower required by **clause (a)** above, a certificate executed by a Responsible Officer of Borrower certifying (i) the current Property Tax assessment amounts payable in respect of each Property, (ii) the payment of all Property Taxes prior to the date such Property Taxes become delinquent, subject to any contest conducted in accordance with **Section 4.4.5** and (iii) if either (A) an Acceptable Blanket Policy is not in place with respect to all Properties or (B) an Acceptable Blanket Policy is in place with respect to all Properties but Borrower has elected to reinstate deposits of Insurance Premiums to the Insurance Subaccount pursuant to **Section 6.2.3**, the monthly cost of the Insurance Premiums with respect to the Policies required under in **Section 5.1.1** that are required to be deposited into the Insurance Subaccount pursuant to **Section 6.2**.

4.3.2 Annual Budget. Borrower shall submit to Lender by December 1, 2018, and December 1 of each succeeding year the Annual Budget relating to the Properties for the succeeding calendar year. During the continuance of a Cash Sweep Period, Lender shall have the right to approve each Annual Budget or portion thereof, as applicable (which approval shall not be unreasonably, conditioned or delayed withheld so long as no Event of Default is continuing). An Annual Budget so approved by Lender or any Annual Budget submitted prior to the commencement of a Cash Sweep Period shall each hereinafter be referred to as an "**Approved Annual Budget**". In the event of a Transfer of any Property the Approved Annual Budget shall be reduced as reasonably determined by Lender in consultation with Borrower in order to reflect the removal of such Property and the Operating Expenses associated

therewith; **provided, further**, that no such reduction shall be made in the event such Transfer is made in connection with a substitution under **Section 2.4.2(a)**. If Lender has the right to approve an Annual Budget (or portion thereof) pursuant to this **Section 4.3.2**, Borrower shall not change or modify the Annual Budget (or such portion) that has been approved by Lender without the prior written consent of Lender (which consent shall not be unreasonably withheld, conditioned or delayed so long as no Event of Default is continuing). The “**Monthly Budgeted Amount**” for each Payment Date shall mean the monthly amount set forth in the Approved Annual Budget for Operating Expenses for the Interest Period related to such Payment Date, but excluding management fees, Property Taxes that are required to be deposited into the Tax Subaccount pursuant to **Section 6.1** and Insurance Premiums that are required to be deposited into the Insurance Subaccount pursuant to **Section 6.2**. If during any Cash Sweep Period, Borrower has submitted an Annual Budget and such Annual Budget has not been approved prior to the commencement of the calendar year (or applicable portion thereof) to which such budget relates then the previous Approved Annual Budget (or applicable portion thereof) shall continue to be deemed to be the Approved Annual Budget for that calendar year (or applicable portion thereof).

4.3.3 Reporting on Adverse Effects. Promptly and in no event more than two (2) Business Days after any Responsible Officer of Borrower obtains knowledge of any matter or the occurrence of any event which would reasonably be expected to have a Material Adverse Effect, written notice thereof.

4.3.4 Litigation. Prompt written notice to Lender of any litigation or governmental proceedings pending or to the actual knowledge of a Responsible Officer of Borrower, threatened in writing against Borrower with respect to any Property, which would reasonably be expected to have a Material Adverse Effect or an Individual Material Adverse Effect with respect to any Property.

4.3.5 Event of Default. Promptly after any Responsible Officer of Borrower obtains knowledge of the occurrence of each Event of Default or Default (if such Default is continuing on the date of such notice), a statement of a Responsible Officer of Borrower setting forth the details of such Event of Default or Default and the action which Borrower is taking or proposes to take with respect thereto.

4.3.6 Other Defaults. Promptly and in no event more than two (2) Business Days after any Responsible Officer of Borrower obtains actual knowledge of any default by Borrower or Equity Owner under any agreement other than the Loan Documents to which such Loan Party is a party which would reasonably be expected to have a Material Adverse Effect, the statement of a Responsible Officer of Borrower setting forth the details of such default and the action which such Loan Party is taking or proposes to take with respect thereto.

4.3.7 Properties Schedule. Borrower shall deliver to Lender no later than the twentieth (20th) Business Day of each calendar month (provided, that if such twentieth (20th) day is not a Business Day, then such delivery shall be permitted on the immediately succeeding Business Day), commencing with the calendar month ending October 31, 2018, (a) an updated Properties Schedule in Excel format containing each of the data fields set forth on **Schedule II.B** (other than those under the caption “**BPO Values**”); **provided**, that the information under the caption “Underwritten Net Cash Flow” need only be updated in the Properties Schedule delivered for the quarter ending in March, June, September and December of each year, commencing with the Properties Schedule delivered for the quarter ending in March 2019 and (b) a calculation of the monthly turnover rate for the Properties for the prior calendar month, which shall be equal to the number of Properties that became vacant during such calendar month divided by the daily average number of Properties during such calendar month. The foregoing information shall be delivered together with a certificate of a Responsible Officer of Borrower certifying that it is true, correct and complete in all material respects (i) with respect to the information in the Properties Schedule other than Underwritten Net Cash Flow data, as of the last day of the preceding calendar month, (ii) with respect to the Underwritten Net Cash Flow data in the Properties Schedule, for the calendar quarter most recently ended, and (iii) with respect to the turnover rate of the Properties, for the prior calendar month.

4.3.8 Disqualified Properties. Promptly and in no event more than twenty (20) Business Days after any Responsible Officer of Borrower obtains actual knowledge that any Property fails to comply with the Property Representations or the Property Covenants, written notice thereof and the action that Borrower is taking or proposes to take with respect thereto.

4.3.9 Security Deposits in Cash Management Account. On the third (3rd) Business Day prior to each Payment Date, commencing with the calendar month ending September 30, 2018, written notice of the aggregate amount of security deposits deposited into the Cash Management Account during such month; **provided** that the notice given for the calendar month ending September 30, 2018 shall include security deposits deposited into the Cash Management Account during the period from and including the Closing Date through and including September 30, 2018.

4.3.10 Advance Rents Received. On the third (3rd) Business Day prior to each Payment Date, commencing with the calendar month ending September 30, 2018, written notice of any Advance Rents received during such calendar month and the related Advance Rent Disbursement Schedules; **provided** that the notice given for the calendar month ending September 30, 2018 shall include Advance Rents received by Borrower for the period from and including the Closing Date through and including September 30, 2018.

4.3.11 Rent Refunds. On the third (3rd) Business Day prior to each Payment Date, commencing with the calendar month ending September 30, 2018, written notice of any Rent Refunds made by Borrower; **provided** that the notice given for the calendar month ending September 30, 2018 shall include Rent Refunds made by Borrower during the period from and including the Closing Date through and including September 30, 2018.

4.3.12 ERISA Matters.

(a) As soon as reasonably possible, and in any event within thirty (30) days after the occurrence of any ERISA Event, written notice of, and any requested information relating to such ERISA Event.

(b) As soon as reasonably possible after the occurrence of a Plan Termination Event, written notice of any action that Borrower proposes to take with respect thereto, along with a copy of any notices received from or filed with the PBGC, the IRS or any Multiemployer Plan with respect to such Plan Termination Event, as applicable.

(c) As soon as reasonably possible, and in any event within thirty (30) days after a Responsible Officer of Borrower has actual knowledge of, or with respect to any Plan or Multiemployer Plan to which Borrower makes direct contributions has reason to believe, that any of the events or conditions specified below with respect to any Plan or Multiemployer Plan has occurred or exists, a statement signed by a Responsible Officer of Borrower setting forth details respecting such event or condition and the action, if any, that Borrower proposes to take with respect thereto (and a copy of any report or notice required to be filed with or given to PBGC by Borrower with respect to such event or condition):

(i) any Reportable Event with respect to a Plan, as to which the PBGC has not by regulation or otherwise waived the requirement of Section 4043(a) of ERISA that it be notified within thirty (30) days of the occurrence of such event (provided that a failure to meet the minimum funding standard of Section 412 of the Code or Section 302 of ERISA, including the failure to make on or before its due date a required installment under Section 412(m) of the Code or Section 302(e) of ERISA, shall be a Reportable Event regardless of the issuance of any waivers in accordance with Section 412(d) of the Code); and any request for a waiver under Section 412(d) of the Code for any Plan;

(ii) the distribution under Section 404(c) of ERISA of a notice of intent to terminate any Plan or any action taken by Borrower to terminate any Plan;

(iii) the institution by the PBGC of proceedings under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by Borrower of a notice from a Multiemployer Plan that such action has been taken by PBGC with respect to such Multiemployer Plan;

(iv) the complete or partial withdrawal from a Multiemployer Plan by Borrower that results in liability under Section 4201 or 4204 of ERISA (including the obligation to satisfy secondary liability

as a result of a purchaser default) or the receipt by Borrower of notice from a Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA or that it intends to terminate or has terminated under Section 4041A of ERISA;

(v) the institution of a proceeding by a fiduciary of any Multiemployer Plan against Borrower to enforce Section 515 of ERISA; and

(vi) failure to satisfy Section 436 of the Code.

4.3.13 Leases. Borrower shall deliver to Lender copies of the executed Leases for the Properties within twenty (20) Business Days of request therefor by Lender.

4.3.14 Other Reports.

(a) Borrower shall deliver to Lender, within twenty (20) Business Days of Lender's request therefor, copies of any requested Property Tax, Other Charge or insurance bills, statements or invoices received by Borrower with respect to the Properties.

(b) Borrower shall, as soon as reasonably practicable after request by Lender furnish or cause to be furnished to Lender in such manner and in such detail as may be reasonably requested by Lender, such additional information, documents, records or reports as may be reasonably requested with respect to the Property or the conditions or operations, financial or otherwise, of the Loan Parties.

Section 4.4 Property Covenants. Borrower shall comply with the following covenants with respect to each Property:

4.4.1 Ownership of the Property. Borrower shall warrant and defend (a) the title to each Property and the related Collateral and (b) the validity and priority of the Lien of the Mortgages on the Properties, in each case against the claims of all Persons whomsoever; subject only to Permitted Liens and Transfers permitted hereunder.

4.4.2 Liens Against the Property. Borrower shall not create, incur, assume or permit to exist any Lien on any interest in any Property, except for the Permitted Liens.

4.4.3 Condition of the Property. Except if the Property has suffered a Casualty and is in the process being restored in accordance with Section 5.4, Borrower shall keep and maintain in all material respects all Properties owned by Borrower in a good, safe and habitable condition and repair and free of and clear of any damage or waste, and from time to time make, or cause to be made, in all material respects, all reasonably necessary repairs, renewals, replacements, betterments and improvements thereto, necessary to comply with the Renovation Standards and applicable Legal Requirements in all material respects; *provided*, that a Carry-Over Property need not comply with the Renovation Standards for so long as it is leased to the applicable Carry-Over Tenant and for so long thereafter as is reasonably necessary to renovate such Property in accordance with the Renovation Standards.

4.4.4 Compliance with Legal Requirements. The Property (including the leasing and intended use thereof) shall comply in all material respects with all applicable Legal Requirements, including, without limitation, building and zoning ordinances and codes and all certifications, permits, licenses and approvals, including without limitation, certificates of completion and occupancy permits, required for the legal leasing, use, occupancy, habitability and operation of the Property, all such certifications, permits, licenses and approvals shall be maintained in full force and effect, except as would not reasonably be expected to have an Individual Material Adverse Effect on the Property. Borrower shall obtain and maintain in full force and effect all consents, approvals, orders, certifications, permits, licenses and authorizations of, and make all filings with or notices to, any court or Governmental Authority related to the operation, use or leasing of the Property except where the failure to obtain would not reasonably be expected to have an Individual Material Adverse Effect with respect to the Property. Borrower shall not, and shall not permit Equity Owner, any Manager or, to the extent permitted by the applicable Lease and Legal Requirements, any other Person in occupancy of or involved with the operation, use or leasing of the Property,

to, commit any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof.

4.4.5 Property Taxes and HOA Fees. Borrower shall promptly pay or cause to be paid all Property Taxes and HOA Fees now or hereafter levied, assessed or imposed on it as the same become due and payable and shall furnish to Lender evidence of payment of Property Taxes and HOA Fees prior to the date the same shall become delinquent, and shall promptly pay for all utility services provided to the Property as the same become due and payable (other than any such utilities which are, pursuant to the terms of any Lease, required to be paid by the Tenant thereunder directly to the applicable service provider); **provided**, that, after prior written notice to Lender of its intention to contest any such Property Taxes and HOA Fees, Borrower may contest by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity of any such Property Taxes and HOA Fees and, in such event, may permit the Property Taxes and HOA Fees so contested to remain unpaid during any period, including appeals, when Borrower is in good faith contesting the same so long as (a) no Event of Default has occurred and remains uncured, (b) such proceeding shall be permitted under and be conducted in accordance with all applicable Legal Requirements, (c) no Property or other Collateral nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, (d) Borrower has set aside on its books adequate reserves in accordance with GAAP, and the non-payment or non-discharge of such Property Taxes and HOA Fees would not reasonably be expected to have an Individual Material Adverse Effect on the applicable Property, (e) enforcement of the contested Property Taxes and HOA Fees is effectively stayed for the entire duration of such contest and no Lien is imposed on any Property or other Collateral which is reasonably expected to have an Individual Material Adverse Effect, (f) any Property Taxes and HOA Fees determined to be due, together with any interest or penalties thereon, is promptly paid as required after final resolution of such contest, (g) to the extent such Property Taxes and HOA Fees (when aggregated with all other Taxes that Borrower is then contesting under **Section 4.1.4** or **Section 4.4.5** and for which Borrower has not delivered to Lender any Contest Security) exceed \$2,500,000, Borrower shall deliver to Lender either (i) cash, or other security as may be approved by Lender, in an amount sufficient to insure the payment of any such Property Taxes and HOA Fees, together with all interest and penalties thereon or (ii) a payment and performance bond in an amount equal to one hundred percent (100%) of the contested amount from a surety acceptable to Lender in its reasonable discretion, (h) failure to pay such Property Taxes and HOA Fees will not subject Lender to any civil or criminal liability, (i) such contest shall not affect the ownership, use or occupancy of any Property, and (j) Borrower shall, upon request by Lender, give Lender prompt notice of the status of such proceedings and/or confirmation of the continuing satisfaction of the conditions set forth in **clauses (a) through (j)** of this **Section 4.4.5**. Notwithstanding the foregoing, Borrower shall pay any contested Property Taxes and HOA Fees (or, if cash or other security has been provided, Lender may pay over any such cash or other security held by Lender to the claimant entitled thereto) if, in Lender's reasonable judgment, any Property or other Collateral (or any part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost or there shall be any danger of the Lien of any Collateral Document being primed by any related Lien.

4.4.6 Compliance with Agreements Relating to the Properties. Borrower shall not enter into any agreement or instrument or become subject to any restriction which would reasonably be expected to have an Individual Material Adverse Effect on any Property. Borrower shall not default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which any Property is bound. Borrower shall not have a material financial obligation under any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument by which any Property is bound, other than obligations under the Loan Documents. Borrower shall not default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Lien with respect to any Property. Except as set forth on **Schedule III**, no Property or any part thereof shall be subject to any purchase options, rights of first refusal, rights of first offer or other similar rights in favor of any Tenant or other third parties.

4.4.7 Leasing. Borrower shall not enter into any Lease (including any renewals or extensions of any existing Lease) for any Property unless such Lease is an Eligible Lease with an Eligible Tenant or a Lease with a Carry-Over Tenant.

ARTICLE V - INSURANCE; CASUALTY; CONDEMNATION

Section 5.1 Insurance.

5.1.1 Insurance Policies.

(a) Borrower shall obtain and maintain, at its sole cost and expense for the term of this Agreement or cause to be maintained, insurance for Borrower and the Properties providing at least the following coverages:

(i) comprehensive “all risk” or special causes of loss form insurance, as is available in the insurance market as of the Closing Date, on the Properties (A) in an amount equal to one hundred percent (100%) of the “**full replacement cost**”, which for purposes of this Agreement shall mean actual replacement value of the Properties, subject to a loss limit equal to \$50,000,000 per occurrence; (B) containing an agreed amount endorsement with respect to the Improvements and personal property at any Property waiving all co insurance provisions or to be written on a no co insurance form and (C) providing for no deductible in excess of \$25,000 (it being understood that, so long as no Default or Event of Default has occurred and is continuing (1) Borrower may utilize a \$3,000,000 aggregate deductible stop loss subject to a \$25,000 per occurrence deductible and a \$25,000 maintenance deductible following the exhaustion of the aggregate, (2) the aggregate stop loss does not apply to any losses arising from named windstorm, earthquake or flood, (3) the perils of named windstorm and the peril of “other wind and hail” shall be permitted to have a minimum deductible of \$100,000 per occurrence for any and all affected Properties, except that the permitted minimum deductible for the named windstorm peril shall be permitted to (a) have a per occurrence deductible in certain Tier 1 locations in Texas of three percent (3%) of the total insurable value of the affected Properties, (b) have a per occurrence deductible for properties in Florida of five percent (5%) of the total insurable value of the affected Properties, and (c) have a per occurrence deductible in certain Tier 1 locations in from Georgia to Virginia of two percent (2%) of the total insurable value of the affected Properties, (each with a minimum deductible of \$100,000 per occurrence for any and all affected Properties), (4) the perils of flood shall be permitted to have a minimum deductible of \$50,000 for any and all affected Properties, except that the perils of special flood shall be permitted to have a minimum of \$250,000 per occurrence for any and all affected Properties, and (5) the peril of earth movement including but not limited to earthquake shall be permitted to have a per occurrence deductible of (a) five percent (5%) of the total insurable value of the affected Properties located in California, Hawaii, Alaska and Puerto Rico (b) two percent (2%) of the total insurable value of the affected Properties located in certain counties in the Pacific Northwest and near New Madrid (each with a minimum deductible of \$100,000 per occurrence for any and all affected Properties). In addition, Borrower shall obtain (x) flood insurance in an amount equal to \$10,000,000 applying per occurrence and in the aggregate, (y) with respect to earthquake insurance the greater of (1) the amount of coverage in place on the Closing Date and (2) the greater of (i) coverage in an amount applying per occurrence and in the aggregate, in an amount equal to the Probable Maximum Loss (PML) or Scenario Expected Limit (SEL) based upon a seismic risk analysis for a 475 year event for the entire portfolio at risk or (ii) 100% of Gross Loss Probable Maximum Loss (Gross Loss PML) or Scenario Expected Limit (SEL) based upon a seismic risk analysis for a 10,000-year event for the entire portfolio at risk (such analysis to be secured by Borrower utilizing a third-party firm qualified to perform such seismic risk analysis using the most current RMS software, or its equivalent, to include consideration of loss amplification, at the expense of the applicable Borrower at least two times per year or more frequently as may reasonably be requested by Lender and shared with Lender presented by the Properties located in areas prone to seismic activity) and (z) with respect to named storm insurance the greater of (1) the amount of coverage in place on the Closing Date and (2) the greater of (i) coverage in an amount equal to the Probable Maximum Loss (PML) or Scenario Expected Limit (SEL) based upon a storm risk analysis for a 475 year event for the entire portfolio at risk or (ii) 100% of Gross Loss Probable Maximum Loss (Gross Loss PML) or Scenario Expected Limit (SEL) based upon a storm risk analysis for a 10,000-year event for the entire portfolio at risk (such analysis to be secured by Borrower using a third-party firm qualified to perform such named storm risk analysis using the most current RMS software, or its equivalent, to include consideration of storm surge, if applicable, and loss amplification, at the expense of the applicable Borrower at least two times per year or more frequently as may reasonably be requested by Lender and shared with Lender); provided, that such flood, earth movement and named storm insurance shall otherwise be on terms consistent with the comprehensive all risk insurance policy required under this **Section 5.1.1(a)(i)**. In addition, Borrower shall obtain the flood insurance coverage described in subclause (x) above for a

Property if any portion of such Property is currently or at any time in the future located in a federally designated “special flood hazard area”, flood hazard insurance or its equivalent in an amount equal to the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended;

(ii) business income or rental loss insurance, written on an “Actual Loss Sustained Basis” (A) with loss payable to Lender for the benefit of Lenders; (B) covering all risks required to be covered by the insurance provided for in **Section 5.1.1(a)(i), (iii), (iv)** and **(viii)**; (C) in an amount equal to one hundred percent (100%) of the aggregate projected net income plus continuing expenses from the operation of the Properties for a period of at least twelve (12) months after the date of the Casualty; and (D) containing an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and personal property at a Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of thirty (30) days from the date that the applicable Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such business income or rental loss insurance shall be determined prior to the Closing Date and at least once each year thereafter based on Borrower’ reasonable estimate of the net income from each Property for the succeeding twelve (12) month period. All proceeds payable to Lender pursuant to this subsection shall be held by Lender in the Casualty and Condemnation Subaccount and disbursed to the Cash Management Account during the month to which such proceeds relate (or in the month received if such proceeds relate to a month prior to the month in which such proceeds were received); **provided, however**, that nothing herein contained shall be deemed to relieve Borrower of their obligation to pay the Obligations on the respective dates of payment provided for in this Agreement and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such business income insurance;

(iii) at all times during which structural construction, repairs or renovations are being made with respect to any Property, and only if each of the property coverage form and the liability insurance coverage form does not otherwise apply, (A) owner’s contingent or protective liability insurance, otherwise known as Owner Contractor’s Protective Liability (or its equivalent), covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy and (B) the insurance provided for in **Section 5.1.1(a)** written in a so-called builder’s risk completed value form including coverage for all insurable hard and soft costs of construction (x) on a non-reporting basis, (y) against all risks insured against pursuant to **Section 5.1.1(a)(i), (iii), (iv)** and **(viii)**, (z) including permission to occupy such Property and (C) with an agreed amount endorsement waiving co-insurance provisions;

(iv) commercial general liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about any Property, such insurance (A) to be on the so-called “occurrence” form with a combined limit of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence; Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate “per location” and overall \$20,000,000.00 in the aggregate; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate and (C) to be at least as broad as Insurance Services Offices (ISO) policy form CG 00 01;

(v) if applicable, automobile liability coverage for all owned and non-owned vehicles, including rented and leased vehicles, containing minimum limits per occurrence of One Million and No/100 Dollars (\$1,000,000.00);

(vi) if applicable, worker’s compensation subject to the worker’s compensation laws of the applicable state, and employer’s liability in amounts reasonably acceptable to Lender;

(vii) umbrella and excess liability insurance in an amount not less than Fifty Million and No/100 Dollars (\$50,000,000.00) per occurrence and in the aggregate on terms consistent with the commercial general liability insurance policy required under **Section 5.1.1(a)(iv)**, and including employer liability and automobile liability, if applicable; and

(viii) upon sixty (60) days' written notice, such other reasonable insurance, and in such reasonable amounts as Lender from time to time may reasonably request against such other insurable hazards which at the time are commonly insured against for properties similar to the Properties located in or around the region in which Properties are located.

(b) All Policies required pursuant to **Section 5.1.1** shall: (i) be obtained under valid and enforceable policies (collectively, the "**Policies**" or in the singular, the "**Policy**"), and shall be subject to the approval of Lender as to insurance companies, amounts, deductibles, loss payees and insureds and (ii) be issued by financially sound and responsible insurance companies authorized to do business in the states where the applicable Properties are located and having a rating of "A3" or better by Moody's or, if Moody's does not provide a rating of an applicable insurance company, a rating of "A-" or better by S&P or Fitch; **provided, however**, that if Borrower elects to have its insurance coverage provided by a syndicate of insurers, then, if such syndicate consists of five (5) or more members, (A) at least sixty percent (60%) of the insurance coverage (or seventy-five percent (75%) if such syndicate consists of four (4) or fewer members) and one hundred percent (100%) of the first layer of such insurance coverage shall be provided by insurance companies having a rating of "A3" or better by Moody's or, if Moody's does not provide a rating of an applicable insurance company, a rating of "A-" or better by S&P or Fitch and (B) the remaining forty percent (40%) of the insurance coverage (or the remaining twenty-five percent (25%) if such syndicate consists of four (4) or fewer members) shall be provided by insurance companies having a rating of "Baa2" by Moody's or, if Moody's does not provide a rating of an applicable insurance company, a rating of "BBB" or better by S&P or Fitch;

(c) All Policies of insurance provided for in **Section 5.1.1(a)**, except for the Policies referenced in **Section 5.1.1(a)(vi)**, shall contain clauses or endorsements to the effect that:

(i) no act or negligence of Borrower, or anyone acting for Borrower, or of any Tenant or other occupant, or failure to comply with the provisions of any Policy, which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Lender is concerned;

(ii) the Policy shall not be canceled without at least thirty (30) days' written notice to Lender and any other party named therein as an additional insured (other than in the case of non-payment in which case only ten (10) days prior notice, or the shortest time allowed by applicable Legal Requirement (whichever is longer), will be required) and shall not be materially changed (other than to increase the coverage provided thereby) without such a thirty (30) day notice;

(iii) Lender shall not be liable for any Insurance Premiums thereon or subject to any assessments thereunder; and

(iv) the issuers thereof shall give notice to Lender if a Policy has not been renewed ten (10) days prior to its expiration.

(d) Certificates of insurance evidencing the Policies shall be delivered to Lender on the Closing Date with respect to the current Policies. Further, not less than ten (10) days prior to the expiration dates of the Policies theretofore furnished to Lender, Borrower shall deliver to Lender certificates of insurance evidencing the Policies (and, upon the written request of Lender, copies of such Policies) accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "**Insurance Premiums**").

(e) Any blanket insurance Policy shall otherwise provide the same protection as would a separate Policy insuring only the Properties in compliance with the provisions of **Section 5.1.1(a)** (any such blanket policy, an "**Acceptable Blanket Policy**").

(f) All Policies of insurance provided for or contemplated by **Section 5.1.1(a)**, except for the Policy referenced in **Section 5.1.1(a)(iv)**, shall name Borrower as the insured and Lender and its successors and/or assigns as mortgagee and loss payee, as its interests may appear, and in the case of property damage, boiler and

machinery, windstorm, flood and earthquake insurance, shall contain a standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender unless below the threshold for Borrower to handle such claim without Lender intervention as provided in **Section 5.2**. Additionally, if Borrower obtains property insurance coverage in addition to or in excess of that required by **Section 5.1.1(a)(i)**, then such insurance policies shall also contain a standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(g) If at any time Lender is not in receipt of written evidence that all insurance required hereunder is in full force and effect, Lender shall have the right, without notice to Borrower, to take such action as Lender deems necessary to protect its interest in the Properties, including, without limitation, the obtaining of such insurance coverage as Lender in its sole discretion deems appropriate after three (3) Business Days' notice to Borrower if prior to the date upon which any such coverage will lapse or at any time Lender deems necessary (regardless of prior notice to Borrower) to avoid the lapse of any such coverage. All premiums incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Borrower to Lender upon demand and, until paid, shall be secured by the Collateral Documents and shall bear interest at the Default Rate.

(h) In the event of foreclosure of the pledge of the Equity Interest of Borrower pursuant to the Equity Owner Security Agreement the Policies shall remain in full force and effect.

Section 5.2 Casualty. If one or more Properties are damaged or destroyed in whole or in part by fire or other casualty (a "**Casualty**") and either (a) the aggregate loss amount is or is reasonably expected to exceed \$25,000 or (b) any damaged Property is or is reasonably expected to be rendered uninhabitable for more than thirty (30) days as a result of the Casualty, then Borrower (i) is required to file proof of loss under the applicable Policy or Policies and (ii) shall give prompt notice of the Casualty to Lender. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower. In addition, Lender may participate in any settlement discussions with any insurance companies (and shall approve any final settlement) (x) if an Event of Default is continuing or (y) with respect to any single Casualty event in which the Net Proceeds or the costs of completing the Restoration of the affected Property or Properties are reasonably expected to be equal to or greater than the Casualty Threshold Amount and Borrower shall deliver to Lender all instruments required by Lender to permit such participation. Any Insurance Proceeds in connection with any Casualty (whether or not Lender elects to settle and adjust the claim or Borrower settles such claim) shall be due and payable solely to Lender and held by Lender in accordance with the terms of this Agreement. If Borrower or any party other than Lender receives any Insurance Proceeds or Condemnation Proceeds, Borrower shall immediately deliver such proceeds to Lender and shall endorse, and cause all such third parties to endorse, check payable therefor to the order of Lender. Borrower hereby irrevocably appoints Lender as its attorney-in-fact, coupled with an interest, to endorse any such check payable to the order of Lender. Borrower hereby releases Lender from any and all liability with respect to the settlement and adjustment by Lender of any claims in respect of any Casualty, except to the extent Lender has engaged in any gross negligence, fraud or willful misconduct in respect thereto.

Section 5.3 Condemnation. Borrower shall promptly give Lender notice of the actual or, to the extent in writing, threatened commencement of any proceeding for the Condemnation of all or any portion of a Property and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender may participate in any such proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings which is reasonably expected to involve an Award of an amount greater than the Casualty Threshold Amount. Notwithstanding any taking by any public or quasi-public authority through Condemnation or otherwise (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Agreement and the Debt shall not be reduced until any Condemnation Proceeds shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. If Borrower or any party other than Lender receives any Condemnation Proceeds, Borrower shall immediately deliver such proceeds to Lender and shall endorse, and cause all such third parties to endorse, a check payable therefore to the order of

Lender. Lender shall not be limited to the interest paid on the Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided herein or in the Note. Net Proceeds from a Condemnation shall be applied as follows:

(a) If a partial Condemnation of a Property does not interfere with the use of such Property as a residential rental property, then the Net Proceeds paid by the condemning authority shall be applied to the prepayment of the Debt in accordance with **Section 2.4.2(c)**.

(b) If a partial Condemnation of a Property does interfere with the use of such Property as a residential rental property or if there occurs a complete Condemnation of a Property (each, a “**Fully Condemned Property**”), then (i) if no Event of Default shall have occurred and be continuing and, within thirty (30) days of the date of the occurrence of such Condemnation, Borrower delivers to Lender a written undertaking to substitute the Fully Condemned Property with a Substitute Property in accordance with the requirements of **Section 2.4.2(a)**, then (A) if Net Proceeds are paid by the condemning authority directly to Borrower subsequent to such substitution, such Net Proceeds may be retained by Borrower (for the avoidance of doubt, Net Proceeds received by Borrower prior to such substitution shall be immediately paid to Lender as required by **Section 5.2**), (B) if Net Proceeds are paid by the condemning authority to Lender, such Net Proceeds will be disbursed by Lender to Borrower upon the consummation of such substitution and (C) Borrower shall provide a Substitute Property within ten (10) Business Days of the date of such undertaking in accordance with the requirements of **Section 2.4.2(a)** and (ii) if an Event of Default shall have occurred and be continuing or Borrower fails to deliver such an undertaking to Lender, then (A) Lender may retain any Net Proceeds received by it, (B) Borrower shall immediately deliver to Lender any Net Proceeds paid to Borrower, (C) the Net Proceeds shall be applied to the prepayment of the Debt in an amount equal to the Release Amount for the Fully Condemned Property in accordance with **Section 2.4.2(c)** and (D) Borrower shall prepay the Loan in an amount equal to the excess, if any, of the Release Amount for the Fully Condemned Property over such Net Proceeds. Promptly following Borrower’s written request after either (1) the substitution of a Substitute Property for such Fully Condemned Property in accordance with the conditions set forth above or (2) receipt by Lender of the Net Proceeds and payment of the Release Amount for such Property, Lender shall (x) release the Fully Condemned Property from the applicable Mortgage Documents and related Lien, provided, that (A) Borrower has delivered to Lender a draft release (and, in the event the Mortgage and the Collateral Assignment of Leases and Rents applicable to the Fully Condemned Property encumbers other Property(ies) in addition to the Fully Condemned Property, such release shall be a partial release that relates only to the Fully Condemned Property and does not affect the Liens and security interests encumbering or on the other Property(ies)) in form and substance appropriate for the jurisdiction in which such Fully Condemned Property is located and shall contain standard provisions protecting the rights of Lender and (B) Borrower shall pay all costs, taxes and expenses associated with such release (including, without limitation, cost to file and record the release and Lender’s reasonable attorneys’ fees) and (y) disburse to Borrower (A) in the case of a substitution of a Substitute Property for such Fully Condemned Property, the Net Proceeds paid by the condemning authority and (B) in the case of the payment of the Release Amount for such Property, the Net Proceeds paid by the condemning authority in excess of the Release Amount for such Property; **provided that**, during the continuance of a Cash Sweep Period, any such excess Net Proceeds shall instead be delivered to the Cash Collateral Subaccount and disbursed in accordance with **Section 6.6.1** and **Section 6.6.2**.

Section 5.4 Restoration

The following provisions shall apply in connection with the Restoration of any Property affected by a Casualty:

(a) If the Net Proceeds reasonably expected to be received in connection with any single Casualty event is less than the Casualty Threshold Amount, then, (i) if no Event of Default shall have occurred and be continuing and, within sixty (60) days of the date of the occurrence of such Casualty, Borrower delivers to Lender a written undertaking to (x) expeditiously commence and to satisfactorily complete with due diligence the Restoration of the affected Properties in accordance with the terms of this Agreement, then (A) if Net Proceeds are paid by the insurance company directly to Borrower subsequent to delivering such undertaking, such Net Proceeds may be retained by

Borrower (for the avoidance of doubt, Net Proceeds received by Borrower prior to delivering such undertaking shall be immediately paid to Lender as required by **Section 5.2**), (B) if Net Proceeds are paid by the insurance company to Lender, such Net Proceeds will be disbursed by Lender to Borrower and (C) Borrower shall conduct the Restoration of the affected Properties in accordance with the terms of **Section 5.4(c)** or (y) substitute the Property subject to the Casualty event with a Substitute Property in accordance with the requirements of **Section 2.4.2(a)** and (ii) if an Event of Default shall have occurred and be continuing or Borrower fails to deliver such an undertaking to Lender, then (A) Lender may retain any Net Proceeds received by it, (B) Borrower shall immediately deliver to Lender any Net Proceeds paid to Borrower as required by **Section 5.2**, (C) such Net Proceeds shall be applied to the prepayment of the Debt in an amount equal to the Release Amount for such Property in accordance with **Section 2.4.2(c)**, (D) Borrower shall prepay the Loan in an amount equal to the excess, if any, of the Release Amount for such Property over such Net Proceeds and (E) promptly following Borrower's written request and receipt by Lender of the Net Proceeds and payment by Borrower of the amounts set forth in clause (D) above, if any, Lender shall (x) release the affected Properties from the applicable Mortgage Documents and related Liens, provided, that (A) Borrower has delivered to Lender draft releases (and, in the event any of the Mortgages and the Assignments of Leases and Rents applicable to any of the affected Properties encumber other Property(ies) in addition to the affected Properties, such release shall be a partial release that relates only to the affected Property(ies) and does not affect the Liens and security interests encumbering or on the other Property(ies)) in form and substance appropriate for the jurisdiction in which such affected Properties are located and shall contain standard provisions protecting the rights of Lender and (B) Borrower shall pay all costs, taxes and expenses associated with such release (including, without limitation, cost to file and record the release and Lender's reasonable attorneys' fees) and (y) disburse to Borrower (A) in the case of a substitution of a Substitute Property for such Property, the Net Proceeds paid by the insurance company and (B) in the case of the payment of the Release Amount for such Property, the Net Proceeds paid by the insurance company in excess of the Release Amount for such Property, if any; **provided that**, during the continuance of a Cash Sweep Period, any such excess Net Proceeds shall instead be delivered to the Cash Collateral Subaccount and disbursed in accordance with **Section 6.6.1** and **Section 6.6.2**.

(b) If the Net Proceeds reasonably expected to be received in connection with any single Casualty event is greater than the Casualty Threshold Amount, then, (i) if no Event of Default shall have occurred and be continuing and, within sixty (60) days of the date of the occurrence of such Casualty, Borrower delivers to Lender a written undertaking to (x) expeditiously commence and to satisfactorily complete with due diligence the Restoration of the affected Properties in accordance with the terms of this Agreement, then (A) Borrower shall immediately deliver to Lender any Net Proceeds paid to Borrower as required by **Section 5.2** and (B) Borrower shall conduct the Restoration of the affected Properties in accordance with the terms of and subject to the conditions of **Section 5.4(d)** or (y) substitute the Property subject to the Casualty event with a Substitute Property in accordance with the requirements of **Section 2.4.2(a)** and (ii) if an Event of Default shall have occurred and be continuing or Borrower fails to deliver such an undertaking to Lender, then (A) Lender may retain any Net Proceeds received by it,

(B) Borrower shall immediately deliver to Lender any Net Proceeds paid to Borrower as required by **Section 5.2**, (C) such Net Proceeds shall be applied to the prepayment of the Debt in an amount equal to the Release Amount for such Property in accordance with **Section 2.4.2(c)**, (D) Borrower shall prepay the Loan in an amount equal to the excess, if any, of the Release Amount for the affected Properties over such Net Proceeds and (E) promptly following Borrower's written request and receipt by Lender of the Net Proceeds and payment by Borrower of the amounts set forth in clause (D) above, if any, Lender shall (x) release the affected Properties from the applicable Mortgage Documents and related Liens, provided, that (A) Borrower has delivered to Lender draft releases (and, in the event any of the Mortgages and the Assignments of Leases and Rents applicable to any of the affected Properties encumber other Property(ies) in addition to the affected Properties, such release shall be a partial release that relates only to the affected Property(ies) and does not affect the Liens and security interests encumbering or on the other Property(ies)) in form and substance appropriate for the jurisdiction in which such affected Properties are located and shall contain standard provisions protecting the rights of Lender and (B) Borrower shall pay all costs, taxes and expenses associated with such release (including, without limitation, cost to file and record the release and Lender's reasonable attorneys' fees) and (y) disburse to Borrower (A) in the case of a substitution of a Substitute Property for such Property, the Net Proceeds paid by the insurance company and (B) in the case of the payment of the Release

Amount for such Property, the Net Proceeds paid by the insurance company in excess of the Release Amount for such Property, if any; **provided** that, during the continuance of a Cash Sweep Period, any such excess Net Proceeds shall instead be delivered to the Cash Collateral Subaccount and disbursed in accordance with **Section 6.6.1** and **Section 6.6.2**.

(c) If Borrower elects to undertake the Restoration a Property or Properties pursuant to **Section 5.4(a)**, (i) Borrower shall, subject to applicable Legal Requirements, commence the Restoration as soon as reasonably practicable (but in no event later than ninety (90) days after such Casualty occurs) and shall diligently pursue the same to satisfactory completion; (ii) Borrower shall cause the affected Property and the use thereof after the Restoration to be in compliance in all material respects with and permitted under all applicable Legal Requirements and such Property, after Restoration, shall be of the same character as prior to such damage or destruction, in all material respects; (iii) the Restoration shall be done and completed by Borrower in an expeditious and diligent fashion and in compliance in all material respects with all applicable Legal Requirements and the Renovation Standards and (iv) for any Restoration of a Property with a total expected cost exceeding \$25,000, Borrower shall deliver, or cause to be delivered, to Lender a signed detailed budget approved in writing by Borrower's architect or engineer stating the entire cost of completing the Restoration, which budget shall be reasonably acceptable to Lender.

(d) If Borrower elects to undertake the Restoration of a Property or Properties pursuant to **Section 5.4(b)**, the following provisions shall apply:

(i) the Net Proceeds shall be made available to Borrower for Restoration upon the determination of Lender that the following conditions are met: (A) Borrower shall, subject to applicable Legal Requirements, commence the Restoration as soon as reasonably practicable (but in no event later than ninety (90) days after such Casualty occurs) and shall diligently pursue the same to satisfactory completion; (B) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note, which will be incurred with respect to the Properties as a result of the occurrence of the Casualty, whichever the case may be, will be covered out of (1) the Net Proceeds, (2) the insurance coverage referred to in **Section 5.1.1(a)(ii)**, if applicable, or (3) by other funds of Borrower; (C) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) the date six (6) months prior to the Maturity Date, (2) the earliest date required for such completion under the terms of any Lease, (3) such time as may be required under applicable Legal Requirements or (4) six (6) months prior to the expiration of the insurance coverage referred to in **Section 5.1.1(a)(ii)**; (D) Borrower shall cause the affected Property and the use thereof after the Restoration to be in compliance with and permitted under all applicable Legal Requirements and such Property, after Restoration, shall be of the same character as prior to such damage or destruction; (E) the Restoration shall be done and completed by Borrower in an expeditious and diligent fashion and in compliance in all material respects with all applicable Legal Requirements and the Renovation Standards; (F) for any Restoration of a Property with a total expected cost exceeding \$25,000, Borrower shall deliver, or cause to be delivered, to Lender a signed detailed budget approved in writing by Borrower's architect or engineer stating the entire cost of completing the Restoration, which budget shall be reasonably acceptable to Lender and (G) the Net Proceeds together with any cash or cash equivalent deposited by Borrower with Lender are sufficient in Lender's discretion to cover the cost of the Restoration.

(ii) The Net Proceeds shall be held by Lender in the Casualty and Condemnation Subaccount and, until disbursed in accordance with the provisions of this **Section 5.4(d)**, shall constitute additional security for the Debt and other obligations under the Loan Documents. The Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower from time to time during the course of the Restoration, upon receipt of evidence satisfactory to Lender that (A) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the Restoration have been paid for in full, and (B) there exist no notices of pendency, stop orders, mechanic's or materialmen's liens or notices of intention to file same, or any similar liens or encumbrances on the Properties which have not been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policy.

(iii) All plans and specifications required in connection with the Restoration shall be subject to the prior approval of Lender and an independent consulting engineer selected by Lender (the “**Casualty Consultant**”), and in each case, such approval shall not be unreasonably withheld, conditioned or delayed. Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. The identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts under which they have been engaged, shall be subject to the approval of Lender and the Casualty Consultant, in each case, such approval shall not be unreasonably withheld, conditioned or delayed. All reasonable out-of-pocket costs and expenses incurred by Lender in connection with recovering, holding and advancing the Net Proceeds for the Restoration including, without limitation, reasonable attorneys’ fees and disbursements and the Casualty Consultant’s fees and disbursements, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Casualty Consultant, less the Casualty Retainage. The term “**Casualty Retainage**” shall mean, as to each contractor, subcontractor or materialman engaged in the Restoration, an amount equal to ten percent (10%) of the costs actually incurred for work in place as part of the Restoration, as certified by the Casualty Consultant, until the Restoration has been completed. The Casualty Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this **Section 5.4(d)**, be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Casualty Retainage shall not be released until the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this **Section 5.4(b)** and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate Governmental Authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Casualty Retainage; **provided, however**, that Lender will release the portion of the Casualty Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which (x) the Casualty Consultant certifies to Lender that such contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of such contractor’s, subcontractor’s or materialman’s contract, (y) the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company issuing the Title Insurance Policy, and (z) Lender receives an endorsement to the Title Insurance Policy insuring the continued priority of the Lien of the applicable Mortgage and evidence of payment of any premium payable for such endorsement. If required by Lender, the release of any such portion of the Casualty Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(vi) If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the opinion of Lender in consultation with the Casualty Consultant, be sufficient to pay in full the balance of the costs which are estimated by the Casualty Consultant to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the “**Net Proceeds Deficiency**”) with Lender (for deposit into the Casualty and Condemnation Subaccount) before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be deposited by Lender into the Casualty and Condemnation Subaccount and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this **Section 5.4(d)** shall constitute additional security for the Obligations.

(vii) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this **Section 5.4(d)**, and the receipt by Lender of evidence reasonably satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be remitted by Lender to Borrower, provided no Event of Default shall have occurred and shall be continuing.

(e) All reasonable out-of-pocket costs and expenses incurred by Lender in connection with any Restoration including, without limitation, reasonable attorneys' fees and disbursements, shall be paid by Borrower.

(f) In the event of foreclosure of a Mortgage, or other transfer of title to a Property or Properties in extinguishment in whole or in part of the Debt all right, title and interest of Borrower in and to the Policies that are not blanket Policies then in force concerning such Property or Properties and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure or Lender or other transferee in the event of such other transfer of title.

ARTICLE VI - RESERVE FUNDS

Section 6.1 Tax Funds; HOA Funds; Debt Service Reserve.

6.1.1 Deposits of Tax Funds. Borrower shall deposit with Lender on each Payment Date an amount equal to one-twelfth (1/12th) of the Property Taxes that Lender estimates will be payable during the next ensuing twelve (12) months, in order to accumulate sufficient funds to pay all such Property Taxes prior to their respective due dates, which amounts shall be transferred into a Subaccount established at the Cash Management Account Bank to hold such funds (the "**Tax Subaccount**"). Amounts deposited from time to time into the Tax Subaccount pursuant to this **Section 6.1.1** are referred to herein as the "**Tax Funds**". If at any time Lender reasonably determines that the Tax Funds will not be sufficient to pay the Property Taxes, Lender shall notify Borrower of such determination and, commencing with the first Payment Date following Borrower's receipt of such written notice, the monthly deposits for Property Taxes shall be increased by the amount that Lender estimates is sufficient to make up the deficiency at least ten (10) days prior to the respective due dates for the Property Taxes; **provided**, that if Borrower receives notice of any deficiency after the date that is ten (10) days prior to the date that Property Taxes are due, Borrower will deposit with or on behalf of Lender such amount within two (2) Business Days after its receipt of such notice.

6.1.2 Release of Tax Funds. Provided no Event of Default is continuing, Lender shall apply Tax Funds in the Tax Subaccount to timely pay or reimburse Borrower for payments of Property Taxes made by Borrower after delivery by Borrower to Lender of evidence of such payment reasonably acceptable to Lender. If the amount of the Tax Funds shall exceed the amounts due for Property Taxes, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the Tax Funds. Any Tax Funds remaining in the Tax Subaccount after the Obligations have been paid in full shall be returned to Borrower. Provided no Default or Event of Default exists, the Tax Funds reserved for any Property shall be released upon a permitted sale and release, a substitution or a prepayment of the Allocated Loan Amount of such Property in accordance with the terms hereof.

6.1.3 Deposits of HOA Funds. Borrower shall deposit with Lender on each Payment Date an amount equal to one-twelfth (1/12th) of the HOA Fees that Lender estimates will be payable with respect to all HOA Properties during the next ensuing twelve (12) months, which amounts shall be transferred into a Subaccount established at the Cash Management Account Bank to hold such funds (the "**HOA Subaccount**"). Amounts deposited from time to time into the HOA Subaccount pursuant to this **Section 6.1.3** are referred to herein as the "**HOA Funds**". If at any time Lender reasonably determines that the HOA Funds will not be sufficient to pay the HOA Fees for the HOA Properties for the next ensuing twelve (12) months, Lender shall notify Borrower of such determination and, within thirty (30) days following Borrower's receipt of such written notice, Borrower shall deposit with Lender for transfer into the HOA Subaccount an amount that Lender estimates is sufficient to make up the deficiency.

6.1.4 Release of HOA Funds. If at any time Lender believes in good faith that HOA Fees due and payable to an HOA for any HOA Property have become delinquent, Lender may in its sole and absolute discretion apply the HOA Funds to pay such HOA Fees. If the amount of the HOA Funds shall exceed the HOA Fees that Lender estimates will be payable with respect to all HOA Properties during the next ensuing twelve (12) months, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the HOA Funds. Any HOA Funds remaining in the HOA Subaccount after the Obligations have been paid in full shall be returned to Borrower. Provided no Default or Event of Default exists, the HOA Funds reserved for any HOA Property shall be released upon a permitted sale and release of such Property in accordance with the terms hereof.

6.1.5 Deposit of Debt Service Funds. On the Closing Date, Borrower shall deposit with Lender an amount equal to one installment of the Monthly Debt Service Payment Amount, which amount shall be transferred into a Subaccount established at the Cash Management Account Bank to hold such funds (the “**Debt Service Subaccount**”). Amounts deposited from time to time into the Debt Service Subaccount pursuant to this **Section 6.1.4** are referred to herein as the “**Debt Service Funds**”. If at any time Lender reasonably determines that a Default in the payment of an installment of the applicable Monthly Debt Service Payment Amount, Lender may in its sole and absolute discretion apply the Debt Service Funds to pay such Monthly Debt Service Payment Amount and demand that Borrower immediately replenish the Debt Service Funds in the Debt Service Account.

Section 6.2 Insurance Funds.

6.2.1 Deposits of Insurance Funds. Borrower shall deposit with or on behalf of Lender on each Payment Date, an amount equal to one-twelfth (1/12th) of the Insurance Premiums that Lender estimates will be payable for the renewal of the coverage afforded by the Policies upon the expiration thereof, in order to accumulate sufficient funds to pay all such Insurance Premiums prior to the expiration of the Policies, which amounts shall be transferred into a Subaccount established at the Cash Management Account Bank to hold such funds (the “**Insurance Subaccount**”). Amounts deposited from time to time into the Insurance Subaccount pursuant to this **Section 6.2.1** are referred to herein as the “**Insurance Funds**”. If at any time Lender reasonably determines that the Insurance Funds will not be sufficient to pay the Insurance Premiums, Lender shall notify Borrower of such determination and the monthly deposits for Insurance Premiums shall be increased by the amount that Lender estimates is sufficient to make up the deficiency at least thirty (30) days prior to expiration of the Policies.

6.2.2 Release of Insurance Funds. Provided no Event of Default is continuing, Lender shall apply Insurance Funds in the Insurance Subaccount to timely pay, or reimburse Borrower for payments of, Insurance Premiums. If the amount of the Insurance Funds shall exceed the amounts due for Insurance Premiums, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the Insurance Funds. Any Insurance Funds remaining in the Insurance Subaccount after the Obligations have been paid in full shall be returned to Borrower. Provided no Default or Event of Default exists, the Insurance Funds reserved for any Property shall be released upon a permitted sale and release, a substitution or a prepayment of the Allocated Loan Amount of such Property in accordance with the terms hereof.

6.2.3 Acceptable Blanket Policy. Notwithstanding anything to the contrary contained in **Section 6.2.1**, if an Acceptable Blanket Policy is in effect with respect to the Policies required pursuant to **Section 5.1.1**, deposits into the Insurance Subaccount required for Insurance Premiums pursuant to **Section 6.2.1** shall be suspended to the extent that Insurance Premiums relate to such Acceptable Blanket Policy. Notwithstanding the foregoing, Borrower may, by written notice to Lender given not less than ten (10) Business Days prior to a Payment Date, elect to reinstate, as of such Payment Date, deposits to the Insurance Subaccount with respect to the Insurance Premiums for one or more of the Policies required pursuant to **Section 5.1.1** for which an Acceptable Blanket Policy is in effect. Further, if Borrower makes such an election, then Borrower may rescind such election by providing a written notice thereof to Lender, which notice shall be effective as of the Payment Date that follows such notice by more than ten (10) Business Days or such later Payment Date as Borrower specifies in its election.

Section 6.3 Capital Expenditure Funds.

6.3.1 Deposits of Capital Expenditure Funds. Borrower shall deposit with or on behalf of Lender on each Payment Date an amount equal to one-twelfth (1/12th) of the product of (a) \$450 multiplied by (b) the number of Properties to which the Loan is applicable, in order to accumulate sufficient funds, for annual Capital Expenditures, which amounts shall be transferred into a Subaccount established at the Cash Management Account Bank to hold such funds (the “**Capital Expenditure Subaccount**”). Amounts deposited from time to time into the Capital Expenditure Subaccount pursuant to this **Section 6.3.1** are referred to herein as the “**Capital Expenditure Funds**”.

6.3.2 Release of Capital Expenditure Funds. Provided no Event of Default is continuing, Lender shall disburse Capital Expenditure Funds out of the Capital Expenditure Subaccount to reimburse Borrower for Capital Expenditures actually paid for by Borrower, provided that: (a) such disbursement is for an Approved Capital

Expenditure, (b) the request for disbursement is accompanied by an Officer's Certificate from Borrower stating that (i) the items to be funded by the requested disbursement are Approved Capital Expenditures, and a description thereof, (ii) all Approved Capital Expenditures to be funded by the requested disbursement have been completed (or completed to the extent of the requested disbursement) in a good and workmanlike manner and in accordance, in all material respects, with all applicable Legal Requirements and the Renovation Standards and (iii) the Approved Capital Expenditures to be funded from the disbursement in question have not been the subject of a previous disbursement and have been paid for by Borrower and (c) for any individual expenditure greater than \$25,000, Borrower has delivered to Lender copies of any invoices, bills or statements related to such Approved Capital Expenditures that are requested by Lender. For the avoidance of doubt, Borrower shall not be entitled to receive a distribution of Capital Expenditure Funds for expenses related to the refurbishment or repair of a Property to the extent that Borrower has been or will be entitled to reimbursement for such expenses from a Tenant's security deposit.

Section 6.4 Casualty and Condemnation Subaccount. Borrower shall pay, or cause to be paid, to Lender all Insurance Proceeds or Awards due to any Casualty or Condemnation in accordance with the provisions of **Section 5.2** and **Section 5.3**, which amounts shall be transferred into a Subaccount established at the Cash Management Bank to hold such funds (the "**Casualty and Condemnation Subaccount**"). Amounts deposited from time to time into the Casualty and Condemnation Subaccount pursuant to this **Section 6.4** are referred to herein as the "**Casualty and Condemnation Funds**". All Casualty and Condemnation Funds shall be held, disbursed and/or applied in accordance with the provisions of **Section 5.3** or **Section 5.4**, as applicable.

Section 6.5 Eligibility Reserve Subaccount.

6.5.1 Deposit of Eligibility Funds. If Borrower shall be required to make a prepayment in respect of any Property pursuant to **Section 2.4.2(a)** (other than in the case of any Property that constitutes a Disqualified Property due to the occurrence of a Voluntary Action in respect thereof), Borrower shall have an option to deposit into a Subaccount established at the Cash Management Bank to hold such funds (the "**Eligibility Reserve Subaccount**") an amount equal to one hundred percent (100%) of the Allocated Loan Amount for any such Property ("**Eligibility Funds**"), provided that Borrower provides Lender with written notice of any such Eligibility Funds and, no later than the due date for the prepayment required under **Section 2.4.2(a)**, delivers such Eligibility Funds with Lender for deposit to the Eligibility Reserve Subaccount.

6.5.2 Release of Eligibility Funds. Provided no Default or Event of Default exists, Lender shall disburse the Eligibility Funds with respect to a Property to Borrower upon (a) the sale of such Property and payment in full of the applicable Release Amount, (b) upon such Property becoming an Eligible Property or (c) upon the substitution of the applicable Disqualified Property with a Substitute Property in accordance with the conditions of **Section 2.4.2(a)**.

Section 6.6 Cash Collateral.

6.6.1 Cash Collateral Subaccount. If a Cash Sweep Period shall be continuing, all Available Cash (after payment of the Monthly Budgeted Amount and any Approved Extraordinary Expenses in accordance with **Section 2.7.2(k)**) shall be paid to Lender, which amounts shall be transferred by Lender into a Subaccount (the "**Cash Collateral Subaccount**") to be held by Lender as cash collateral for the Debt. Amounts on deposit from time to time in the Cash Collateral Subaccount pursuant to this **Section 6.6.1** are referred to as the "**Cash Collateral Funds**". Lender shall have the right, but not the obligation, at any time during the continuance of an Event of Default, in its sole and absolute discretion to apply any and all Cash Collateral Funds then on deposit in the Cash Collateral Subaccount to the Debt, in such order and in such manner as Lender shall elect in its sole and absolute discretion, including to make a prepayment of principal (together with the applicable Yield Maintenance Premium applicable thereto) or any other amounts due hereunder.

6.6.2 Withdrawal of Cash Collateral Funds. Provided no Default or an Event of Default hereunder is continuing and there is an amount exceeding one percent (1%) of the Outstanding Principal Balance on deposit in the Cash Collateral Subaccount (the "**Cash Collateral Floor**"), Lender shall make disbursements from the Cash Collateral Subaccount of Cash Collateral Funds in excess of the Cash Collateral Floor to pay costs and expenses in

connection with the ownership, management and/or operation of the Properties to the extent such amounts are not otherwise paid pursuant to **Section 6.6.1** or by Manager pursuant to the Management Agreement for the following items: (a) Operating Expenses (including management fees, but subject to the Management Fee Cap) set forth in an Approved Annual Budget (subject to a five percent (5%) variation for Operating Expenses in such Approved Annual Budget), (b) emergency repairs and/or life-safety items (including applicable Capital Expenditures for such purpose), (c) Capital Expenditures set forth in an Approved Annual Budget (subject to a five percent (5%) variation for Capital Expenditures in such Approved Annual Budget), (d) legal, audit and accounting costs associated with the Properties or Borrower, excluding legal fees incurred in connection with the enforcement of Borrower's, rights pursuant to the Loan Documents, (e) payment of Debt Service on the Loan, (f) voluntary or mandatory prepayment of the Loan (together with any applicable Yield Maintenance Premium), including, without limitation, any Low DSCR Cure Prepayment, and (g) expenses and shortfalls relating to Restoration; **provided**, that no disbursements shall be made from the Cash Collateral Subaccount for any of the Operating Expenses or Capital Expenditures described in the foregoing clauses (a) through (d) to the extent amounts for such Operating Expenses or Capital Expenditures have been distributed to Borrower from the Cash Management Account under **Section 2.7.2(k)**, or may be distributed to Borrower from the Tax Subaccount, the Insurance Subaccount or the Capital Expenditure Subaccount, as applicable.

6.6.3 Release of Cash Collateral Funds. Provided no Cash Sweep Period is continuing as of two (2) consecutive Calculation Dates (or after the second Calculation Date following the making of a Low DSCR Cure Prepayment by Borrower), Lender shall release Cash Collateral Funds in the Cash Collateral Subaccount to Borrower.

6.6.4 Extraordinary Expense. If, during any Cash Sweep Period, Borrower incurs or is required to incur an operating expense or capital expense which is not set forth in the Approved Annual Budget (each an "**Extraordinary Expense**"), then Borrower shall promptly deliver to Lender in writing a reasonably detailed explanation of such Extraordinary Expense. If a Cash Sweep Period then exists, then such Extraordinary Expense shall be subject to Lender's approval, which approval may not be unreasonably withheld or delayed so long as no Event of Default then exists; **provided, however**, that during a Cash Sweep Period, so long as no Event of Default then exists, Lender shall be deemed to have approved any Extraordinary Expense (other than fees paid to any Manager or any amounts paid to any Affiliates of Borrower) that (a) does not exceed (when aggregated with any and all other requested and unpaid Extraordinary Expenses covered by the same line item of the Approved Annual Budget) ten percent (10%) of the monthly amount of the applicable line item set forth in the Approved Annual Budget for such month and (b) does not exceed (when aggregated with any and all other requested and unpaid Extraordinary Expenses of the same type (i.e., Operating Expenses or Capital Expenditures)) five percent (5%) of the aggregate monthly amount of the Approved Annual Budget with respect to Operating Expenses or Capital Expenditures, as applicable, for such month. Any Extraordinary Expense incurred by Borrower and approved (or deemed approved) by Lender is referred to herein as an ("**Approved Extraordinary Expense**"). Any amounts distributed to Borrower for the payment of Approved Extraordinary Expenses pursuant to **Section 6.6.4** shall be used by Borrower only to pay for such Approved Extraordinary Expenses or reimburse Borrower for such Approved Extraordinary Expenses, as applicable.

Section 6.7 Advance Rent Funds.

6.7.1 Deposits of Advance Rent Funds. In the event Borrower receives any Advance Rent, Borrower shall deposit (or cause to be deposited) any such Advance Rent into a Subaccount established at the Cash Management Account Bank to hold such funds (the "**Advance Rent Subaccount**"). Amounts deposited from time to time in the Advance Rent Subaccount pursuant to this **Section 6.7.1** are referred to herein as the "**Advance Rent Funds**".

6.7.2 Release of Advance Rent Funds. Provided no Event of Default has occurred and is continuing, on each Payment Date, Lender shall disburse the applicable Advance Rent Funds to the Cash Management Account in accordance with the Advance Rent Disbursement Schedule.

Section 6.8 Reserve Funds, Generally.

(a) Notwithstanding anything to the contrary contained in this **Article VI**, disbursements of Reserve Funds to Borrower shall only occur on the Reserve Release Date after receipt by Lender of a Reserve Release

Request from Borrower not less than five (5) Business Days prior to such date; **provided**, that if the amount of Reserve Funds to be released to Borrower on any Reserve Release Date is less than the Minimum Disbursement Amount, then such Reserve Funds shall continue to be maintained in the Subaccounts until the next Reserve Release Date on which an amount equal to or greater than the Minimum Disbursement Amount is available for disbursement or until the payment in full of the Obligations.

(b) Borrower grants to Lender a first-priority perfected security interest in each of the Reserve Funds and any and all monies now or hereafter deposited in each Reserve Fund as additional security for payment of the Debt. Until expended or applied in accordance herewith, the Reserve Funds shall constitute additional security for the Debt.

(c) During the continuance of an Event of Default, Lender may, in addition to any and all other rights and remedies available to Lender, apply any sums then present in any or all of the Reserve Funds to the payment of the Debt in any order in its sole discretion.

(d) The Reserve Funds shall be held in an Eligible Account in cash or Permitted Investments as directed by Lender or Lender's Servicer. All interest on a Reserve Fund shall be added to and become a part thereof and shall be the sole property of Borrower. Borrower shall be responsible for payment of any federal, state or local income or other tax applicable to the interest earned on the Reserve Funds credited or paid to Borrower.

(e) Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any Reserve Fund or the monies deposited therein or permit any lien or encumbrance to attach thereto, or any levy to be made thereon, or any UCC-1 financing statements, except those naming Lender as the secured party, to be filed with respect thereto.

(f) Lender and Servicer shall not be liable for any loss sustained on the investment of any funds constituting the Reserve Funds. Borrower shall indemnify Lender and Servicer and hold Lender and Servicer harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and reasonable out-of-pocket costs and expenses (including out-of-pocket litigation costs and reasonable attorneys' fees and expenses), other than those arising from Lender's or Servicer's bad faith or willful misconduct, arising from or in any way connected with the Reserve Funds or the performance of the obligations for which the Reserve Funds were established. Borrower hereby assigns to Lender all rights and claims Borrower may, during the Term, have against all persons or entities supplying labor, materials or other services which are to be paid from or secured by the Reserve Funds; **provided, however**, that Lender shall not pursue any such right or claim unless an Event of Default has occurred and remains uncured.

ARTICLE VII - DEFAULTS

Section 7.1 Event of Default.

(a) Each of the following events shall constitute an event of default hereunder (an "Event of Default"):

(i) if (A) the Debt is not paid in full on the Maturity Date, (B) any regularly scheduled monthly payment of interest due under the Note is not paid in full on the applicable Payment Date, (C) any prepayment of principal or Release Amount due under this Agreement or the Note is not paid when due or (D) any Yield Maintenance Premium is not paid when due, in the case of clauses (B), (C) or (D), such failure continuing for two (2) Business Days after the due date for such payment or deposit;

(ii) if any deposit to the Reserve Funds is not made on the required deposit date therefor, with such failure continuing for two (2) Business Days after Lender delivers written notice thereof to Borrower;

(iii) if any other amount payable pursuant to this Agreement, the Note or any other Loan Document (other than as set forth in the foregoing **clauses (i) and (ii)**) is not paid in full when due and payable in

accordance with the provisions of the applicable Loan Document, with such failure continuing for ten (10) days after Lender delivers written notice thereof to Borrower;

(iv) if the Policies are not (A) delivered to Lender within five (5) Business Days of Lender's written request and (B) kept in full force and effect, each in accordance with the terms and conditions hereof;

(v) a Transfer other than a Permitted Transfer occurs;

(vi) if any certification, representation or warranty made by a Loan Party herein or any other Loan Document, other than a Property Representation, or in any report, certificate, financial statement or other instrument, agreement or document furnished by a Loan Party to Lender shall have been false or misleading in any material and adverse respect as of the date such representation or warranty was made; **provided, however**, if any untrue certification, representation or warranty made after the Closing Date is susceptible of being cured, Borrower shall have the right to cure such certification, representation or warranty within thirty (30) days after receipt of notice from Lender; and **provided further** that for any certification, representation or warranty made in connection with a delivery of a report, Borrower shall have such longer grace period as applicable for delivery of such report;

(vii) if any Loan Party shall make an assignment for the benefit of creditors;

(viii) if a receiver, liquidator or trustee shall be appointed for any Loan Party, any Loan Party shall be adjudicated a bankrupt or insolvent, or if any petition for bankruptcy, reorganization or arrangement pursuant to federal bankruptcy law, or any similar federal or state law, shall be filed by or against, consented to, or acquiesced in by, Loan Party, or if any proceeding for the dissolution or liquidation of any Loan Party shall be instituted, or if any Loan Party is substantively consolidated with any Person other than a Loan Party; **provided, however**, if such appointment, adjudication, petition, proceeding or consolidation was involuntary and not consented to by such Loan Party, upon the same not being discharged, stayed or dismissed within sixty (60) days following its filing;

(ix) if any Loan Party attempts to assign its rights under this Agreement or any of the other Loan Documents to which such Loan Party is a party or any interest herein or therein in contravention of the Loan Documents;

(x) if any of the assumptions contained in the Insolvency Opinion, or in any Additional Insolvency Opinion delivered to Lender in connection with the Loan, is or shall become untrue in any material respect;

(xi) a breach of the covenants set forth in **Sections 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.12, 4.1.19, 4.2.2, 4.2.3, 4.2.5, 4.2.8, 4.2.9, 4.2.11, 4.2.14 or 4.2.15**;

(xii) if with respect to any Disqualified Property, Borrower fails to within the time periods specified in **Section 2.4.2(a)** either: (A) pay the Release Amount in respect thereof, (B) substitute such Disqualified Property with a Substitute Property in accordance with **Section 2.4.2(a)** or (C) or deposit an amount equal to one hundred percent (100%) of the Allocated Loan Amount for the Disqualified Property in the Eligibility Reserve Subaccount in accordance with **Section 2.4.2(a)** and such failure continues for more than five (5) Business Days after written notice thereof from Lender to Borrower;

(xiii) if, (A) without Lender's prior written consent, (i) any Management Agreement is terminated (unless simultaneously therewith, Borrower and a new Qualified Manager enter into a Replacement Management Agreement in accordance with **Section 4.2.1**), or (ii) there is a default by Borrower under any Management Agreement beyond any applicable notice or grace period and such Manager terminates or cancels the applicable Management Agreement (unless, within thirty (30) days after the expiration of such notice or grace period, Borrower and a new Qualified Manager enter into a Replacement Management Agreement in accordance with **Section**

4.2.1) or (B) following the occurrence of a Manager Default, Borrower fails to exercise its right to terminate the Manager under the Management Agreement;

(xiv) if any Loan Party, any Qualified Transferee, or any subsidiary of Parent or any Qualified Transferee that owns a direct or indirect ownership interest in any Loan Party shall be convicted of a Patriot Act Offense by a court of competent jurisdiction;

(xv) any failure on the part of any Borrower to duly observe or perform any of its covenants set forth in **Section 4.1.20** or **Section 4.2.16** or the representation and warranty in **Section 3.1.24** shall fail to be correct in respect of a Tenant of any Property and, in each case, Borrower fails to notify OFAC within five (5) Business Days of Borrower obtaining knowledge that such Tenant is on any of the lists described in those sections and promptly take such steps as may be required by OFAC with respect to such Tenant;

(xvi) if there shall be a default under any of the other Loan Documents by any Loan Party beyond any applicable cure periods contained in such Loan Documents, whether as to any Loan Party or the Properties, or if any other such event shall occur or condition shall exist, if the effect of such event or condition is to accelerate the maturity of any portion of the Obligations or to permit Lender to accelerate the maturity of all or any portion of the Obligations;

(xvii) if any Loan Document or any Lien granted thereunder by any Loan Party shall (except in accordance with its terms or pursuant to Lender's written consent), in whole or in part, terminate, cease to be effective or cease to be the legally valid, binding and enforceable obligation of the parties thereto or any Loan Party or any other party shall disaffirm or contest, in writing, in any manner such effectiveness, validity, binding nature or enforceability (other than as a result of the occurrence of the payment in full of the Obligations);

(xviii) one or more final judgments for the payment of \$2,500,000 or more rendered against any Loan Party, and such amount is not covered by insurance or indemnity or discharged, paid or stayed within sixty (60) days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished;

(xix) Parent or any Qualified Transferee that executes and delivers a replacement guaranty pursuant to **Section 4.2.17(e)** fails to maintain the Parent Financial Covenant; or

(xx) if any Loan Party shall continue to be in Default under any of the other terms, covenants or conditions of this Agreement or any other Loan Document to which such Loan Party is a party not specified in subsections (i) to (xx) above, and such Default shall continue for ten (10) days after notice to Borrower from Lender, in the case of any such Default which can be cured by the payment of a sum of money, or for thirty (30) days after notice to Borrower from Lender in the case of any other such Default; **provided, however**, that if such non-monetary Default is susceptible of cure but cannot reasonably be cured within such thirty (30)-day period, and **provided further** that Borrower shall have commenced to cure such Default within such thirty (30)-day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30)-day period shall be extended for such time as is reasonably necessary for Borrower in the exercise of due diligence to cure such Default, such additional period not to exceed one hundred twenty (120) days.

(b) During the continuance of an Event of Default (other than an Event of Default described in **clauses (vii), (viii) or (ix)** above), in addition to any other rights or remedies available to it pursuant to this Agreement and the other Loan Documents or at law or in equity, Lender may take such action, without notice or demand, that Lender deems advisable to protect and enforce its rights against any Loan Party and in and to any or all of the Properties, including, without limitation, declaring the Debt to be immediately due and payable, and Lender may enforce or avail itself of any or all rights or remedies provided in the Loan Documents against the Loan Parties and any or all of the Properties, including, without limitation, all rights or remedies available at law or in equity; and upon any Event of Default described in **clauses (vii), (viii) or (ix)** above, the Debt and Other Obligations of Borrower hereunder and under the other Loan Documents shall immediately and automatically become due and payable,

without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in any other Loan Document to the contrary notwithstanding.

Section 7.2 Remedies.

(a) During the continuance of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to Lender under this Agreement or any of the other Loan Documents or at law or in equity may be exercised by Lender at any time and from time to time, whether Loan not all or any of the Debt shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Loan Documents with respect to all or any part of any Property. Any such actions taken by Lender shall be cumulative and concurrent and may be pursued independently, singularly, successively, together or otherwise, at such time and in such order as Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by law, equity or contract or as set forth herein or in the other Loan Documents. Without limiting the generality of the foregoing, Borrower agrees that if an Event of Default is continuing (i) Lender is not subject to any "one action" or "election of remedies" law or rule, and (ii) all liens and other rights, remedies or privileges provided to Lender shall remain in full force and effect until Lender has exhausted all of its remedies against the Properties and each Mortgage has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Debt or the Debt has been paid in full.

(b) With respect to Borrower and the Properties, nothing contained herein or in any other Loan Document shall be construed as requiring Lender to resort to any Property for the satisfaction of any of the Debt in any preference or priority to any other Property, and Lender may seek satisfaction out of all of the Properties, or any part thereof, in its absolute discretion in respect of the Debt. In addition, Lender shall have the right from time to time to partially foreclose the Lien of the Mortgages and the other Collateral Documents in any manner and for any amounts secured by the Mortgages and the other Collateral Documents then due and payable as determined by Lender in its sole discretion including, without limitation, the following circumstances: (i) in the event Borrower defaults beyond any applicable grace period in the payment of one or more scheduled payments of principal and interest, Lender may foreclose the Lien of one or more of the Mortgages and/or the other Collateral Documents to recover such delinquent payments or (ii) in the event Lender elects to accelerate less than the entire Outstanding Principal Balance of the Loan, Lender may foreclose the Lien of one or more of the Mortgages and/or the other Collateral Documents to recover so much of the principal balance of the Loan as Lender may accelerate and such other sums secured by the Mortgages and the other Collateral Documents as Lender may elect. Notwithstanding one or more partial foreclosures, the Collateral shall remain subject to the Mortgages and the other Collateral Documents to secure payment of sums secured by the Collateral Documents and not previously recovered.

(c) During the continuance of an Event of Default, Lender shall have the right from time to time to sever the Note and the other Loan Documents into one or more separate notes, Collateral Documents and other security documents (the "**Severed Loan Documents**") in such denominations as Lender shall determine in its sole discretion for purposes of evidencing and enforcing its rights and remedies provided hereunder. Borrower shall execute and deliver to Lender from time to time, promptly after the request of Lender, a severance agreement and such other documents as Lender shall request in order to effect the severance described in the preceding sentence, all in form and substance reasonably satisfactory to Lender. The Loan Parties hereby absolutely and irrevocably appoint Lender as its true and lawful attorney, coupled with an interest, in its name and stead to make and execute all documents necessary or desirable to effect the aforesaid severance, Borrower ratifying all that its said attorney shall do by virtue thereof; **provided, however**, Lender shall not make or execute any such documents under such power until three (3) days after notice has been given to Borrower by Lender of Lender's intent to exercise its rights under such power. Borrower shall be obligated to pay any costs or expenses incurred in connection with the preparation, execution, recording or filing of the Severed Loan Documents and the Severed Loan Documents shall not contain any representations, warranties or covenants not contained in the Loan Documents and any such representations and warranties contained in the Severed Loan Documents will be given by Borrower only as of the Closing Date.

(d) As used in this **Section 7.2**, a “foreclosure” shall include, without limitation, any sale by power of sale.

Section 7.3 Remedies Cumulative; Waivers. The rights, powers and remedies of Lender under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which Lender may have against Borrower pursuant to this Agreement or the other Loan Documents, or existing at law or in equity or otherwise. Lender’s rights, powers and remedies may be pursued singularly, concurrently or otherwise, at such time and in such order as Lender may determine in Lender’s sole discretion. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

Section 7.4 Lender’s Right to Perform. If Borrower fails to perform any covenant or obligation contained herein and such failure shall continue for a period of five (5) Business Days after Borrower’s receipt of written notice thereof from Lender, without in any way limiting Lender’s right to exercise any of its rights, powers or remedies as provided hereunder, or under any of the other Loan Documents, Lender may, but shall have no obligation to, perform, or cause the performance of, such covenant or obligation, and all costs, expenses, liabilities, penalties and fines of Lender incurred or paid in connection therewith shall be payable by Borrower to Lender upon demand and if not paid shall be added to the Obligations, and to the extent permitted under applicable laws, secured by the Mortgages and the other Collateral Documents and shall bear interest thereafter at the Default Rate. Notwithstanding the foregoing, Lender shall have no obligation to send notice to Borrower of any such failure.

ARTICLE VIII - SALE OF NOTES/ SERVICING

Section 8.1 Sale of Notes. Borrower acknowledges and agrees that Lender may sell all or any portion of the Loan and the Loan Documents, or issue one or more participations therein; provided that Lender may not sell all or any portion of the Loan and the Loan Documents, or issue any participation therein, to any Person set forth in **Schedule VIII** hereto. Lender shall promptly notify Borrower of any such sale of all or any portion of the Loan. Lender or its designee, acting solely for this purpose as an agent of Borrower, shall maintain a register (“**Register**”) for the recordation of the names and addresses of Lenders, and principal amounts (and stated interest) of the Loan owing to, each Lender pursuant to the terms hereof from time to time. The entries in the Register shall be conclusive absent manifest error. The Register shall be available for inspection by Borrower, at any reasonable time and from time to time upon reasonable prior notice. Borrower acknowledges and agrees that Lender may assign, transfer and/or pledge any or all of its respective rights under this Agreement and the Loan Documents (including, without limitation, any assignment of rights as “Lender” (or any servicer or agent thereof) under any Blocked Account Control Agreement or Deposit Account Control Agreement); provided that Lender may not assign, transfer or pledge all or any portion of the Loan and the Loan Documents and its rights relating thereto to any Person set forth in **Schedule VIII** hereto.

Section 8.2 Servicer. At the option of Lender, the Loan may be serviced by a master servicer, primary servicer, special servicer and/or trustee (any such master servicer, primary servicer, special servicer, and trustee, together with its agents, nominees or designees, are collectively referred to as “**Servicer**”) selected by Lender and Lender may delegate all or any portion of its responsibilities under this Agreement and the other Loan Documents to Servicer pursuant to a trust and servicing, pooling and servicing agreement, servicing agreement, special servicing agreement or other agreement providing for the servicing of one or more mortgage loans (collectively, the “**Servicing Agreement**”) between Lender and Servicer. Borrower shall not be responsible for any set-up fees or any other costs relating to or arising under the Servicing Agreement, including, without limitation, any monthly master servicing fee due to the Servicer under the Servicing Agreement.

ARTICLE IX - MISCELLANEOUS

Section 9.1 Successors. Except as otherwise provided in this Agreement, whenever in this Agreement any of the parties to this Agreement is referred to, such reference shall be deemed to include the successors and permitted assigns of such party. All covenants, promises and agreements in this Agreement contained, by or on behalf of Borrower, shall inure to the benefit of Lender and its successors and assigns.

Section 9.2 Lender's Discretion. Whenever pursuant to this Agreement Lender exercises any right given to it to approve or disapprove any matter, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove such matter or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole discretion of Lender and shall be final and conclusive.

Section 9.3 Governing Law.

(a) **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.**

(b) **ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS (OTHER THAN ANY ACTION IN RESPECT OF THE CREATION, PERFECTION OR ENFORCEMENT OF A LIEN OR SECURITY INTEREST CREATED PURSUANT TO ANY LOAN DOCUMENTS NOT GOVERNED BY THE LAWS OF THE STATE OF NEW YORK) MAY BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW. BORROWER AND LENDER HEREBY (i) IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM, (ii) IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING, AND**

(iii) IRREVOCABLY CONSENT TO SERVICE OF PROCESS BY MAIL, PERSONAL SERVICE OR IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW, AT THE ADDRESS SPECIFIED IN SECTION 9.5 (AND AGREES THAT SUCH SERVICE AT SUCH ADDRESS IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER ITSELF IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT).

Section 9.4 Modification, Waiver in Writing. Neither this Agreement nor any other Loan Document may be amended, changed, waived, discharged or terminated, nor shall any consent or approval of Lender be granted hereunder, unless such amendment, change, waiver, discharge, termination, consent or approval is in writing signed by Lender. In addition, Lender shall not waive the requirement that the Closing Date Diligence Provider Certificate be delivered on or prior to the making of the Loan.

Section 9.5 Notices. All notices, consents, approvals and requests required or permitted hereunder or under any other Loan Document shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested, or (b) expedited prepaid delivery service, either commercial or United States Postal Service, with proof of attempted delivery, addressed as follows (or at such other address and Person as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for in this Section):

If to Lender: Metropolitan Life Insurance Company
c/o MetLife Investment Advisors, LLC

One MetLife Way
Whippany, New Jersey 07981
Attention: Director – Residential Mortgage Loan Trading

with a copy to: Metropolitan Life Insurance Company
c/o MetLife Investment Advisors, LLC
Investments, Law Dept.
One MetLife Way
Whippany, New Jersey 07981
Attention: Chief Counsel – Investments
Email: Sec_Invest_Law@metlife.com

with a copy to: Morgan, Lewis & Bockius, LLP
101 Park Avenue
New York, New York 10178
Attention: Ferdinand J. Gallo III, Esq.
Email: ferdinand.gallo@morganlewis.com

If to Borrower: SFR MT LLC
245 Park Avenue, 26th Floor
New York, New York 10167
Attention: Raul E. Moreno
Email: rmoreno@angelogordon.com

with a copy to: SFR MT LLC
245 Park Avenue, 26th Floor
New York, New York 10167
Attention: Jason Corn
Email: jcorn@angelogordon.com

with a copy to: Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219
Attention: Andrew J. Blanchard, Esq.
Email: ablanchard@HuntonAK.com

A notice shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day; or in the case of expedited prepaid delivery, upon the first attempted delivery on a Business Day.

Section 9.6 Trial by Jury. LENDER AND BORROWER, TO THE FULLEST EXTENT THAT THEY MAY LAWFULLY DO SO, HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY LENDER AND BORROWER AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LENDER AND BORROWER ARE EACH HEREBY INDIVIDUALLY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

Section 9.7 Headings. The Article and Section headings in this Agreement are included in this Agreement for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

Section 9.8 Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

Section 9.9 Remedies of Borrower. If a claim is made that Lender or its agents have unreasonably delayed acting or acted unreasonably in any case where by law or under this Agreement or the other Loan Documents, any of such Persons has an obligation to act promptly or reasonably, Borrower agrees that no such Person shall be liable for any monetary damages, and Borrower's sole remedy shall be limited to commencing an action seeking specific performance, injunctive relief and/or declaratory judgment; ***provided, however,*** that the forgoing shall not prevent Borrower from obtaining a monetary judgment against Lender if it is determined by a court of competent jurisdiction that Lender acted with gross negligence, bad faith or willful misconduct. Notwithstanding anything herein to the contrary, Borrower shall not assert, and hereby waives, any claim against Lender and/or its affiliates, directors, employees, attorneys, agents or sub-agents, on any theory of liability, for special, indirect, consequential or punitive damages (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable Legal Requirement) arising out of, as a result of, or in any way related to, the Loan Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, the Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and Borrower hereby waives, releases and agrees not to sue upon any such claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

Section 9.10 Offsets. All payments made by Borrower hereunder or under the other Loan Documents shall be made irrespective of, and without any deduction for, any offsets, counterclaims or defenses.

Section 9.11 No Joint Venture. Nothing in this Agreement is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender, or to grant Lender any interest in any Property other than that of mortgagee or lender.

Section 9.12 Conflict; Construction of Documents. In the event of any conflict between the provisions of this Agreement and the provisions of the other Loan Documents, the provisions of this Agreement shall prevail. The parties acknowledge that they were each represented by competent counsel in connection with the negotiation, drafting and execution of the Loan Documents and that the Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted same.

Section 9.13 Brokers and Financial Advisors. Borrower represents that neither it nor Parent has dealt with any financial advisors, brokers, underwriters, placement agents, agents or finders, other than Amherst Pierpont Securities LLC, in connection with the transactions contemplated by this Agreement, and any commissions payable in connection with any such engagements by Borrower shall be paid solely by Borrower. Borrower shall indemnify and hold Lender harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of Borrower in connection with the transactions contemplated in this Agreement. The provisions of this Section shall survive the expiration and termination of this Agreement and the repayment of the Indebtedness.

Section 9.14 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Copies of originals, including copies delivered by facsimile, pdf or other electronic means shall have the same import and effect as original counterparts and shall be valid, enforceable and binding for the purposes of this Agreement.

Section 9.15 General Indemnity; Payment of Expenses.

(a) Borrower, at its sole cost and expense, shall protect, indemnify, reimburse, defend and hold harmless Lender and each of its officers, directors, partners, employees, representatives, agents and Affiliates and each Person or entity who Controls any such Person within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the “**Indemnified Persons**”) for, from and against any and all Damages of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against any of the Indemnified Person, in any way relating to or arising out of (i) the execution or delivery of any Loan Document or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transaction, (ii) the use or proposed use of the proceeds of the Loan or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Loan Party or any of its Affiliates, and regardless of whether any Indemnified Person is a party thereto; provided, however, that no Indemnified Person shall have the right to be indemnified hereunder to the extent that such Damages have been found by a final judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnified Person.

(b) If for any reason (including violation of law or public policy) the undertakings to defend, indemnify, pay and hold harmless set forth in this **Section 9.15** are unenforceable in whole or in part or are otherwise unavailable to an Indemnified Person or insufficient to hold it harmless, then Borrower shall contribute to the amount paid or payable by an Indemnified Person as a result of any Damages the maximum amount Borrower is permitted to pay under Legal Requirements. The obligations of Borrower under this **Section 9.15** will be in addition to any liability that Borrower may otherwise have hereunder and under the other Loan Documents.

(c) To the extent any Indemnified Person has notice of a claim for which it intends to seek indemnification hereunder, such Indemnified Person shall give prompt written notice thereof to Borrower, provided that failure by Lender to so notify Borrower will not relieve Borrower of its obligations under this **Section 9.15**, except to the extent that Borrower suffers actual prejudice as a result of such failure. In connection with any claim for which indemnification is sought hereunder, Borrower shall have the right to defend the applicable Indemnified Person (if requested by the applicable Indemnified Person, in the name of such Indemnified Person) from such claim by attorneys and other professionals reasonably approved by the applicable Indemnified Person. Upon assumption by Borrower of any defense pursuant to the immediately preceding sentence, Borrower shall have the right to control such defense, **provided** that the applicable Indemnified Person shall have the right to reasonably participate in such defense and Borrower shall not consent to the terms of any compromise or settlement of any action defended by Borrower in accordance with the foregoing without the prior consent of the applicable Indemnified Person, unless such compromise or settlement (i) includes an unconditional release of the applicable Indemnified Person from all liability arising out of such action and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of the applicable Indemnified Person. The applicable Indemnified Person shall have the right to retain its own counsel if (A) Borrower shall have failed to employ counsel reasonably satisfactory to the applicable Indemnified Person in a timely manner, or (B) the applicable Indemnified Person shall have been advised by counsel that there are actual or potential material conflicts of interest between Borrower and the applicable Indemnified Person, including situations in which there are one or more legal defenses available to the applicable Indemnified Person that are different from or additional to those available to Borrower. So long as Borrower is conducting the defense of any action defended by Borrower in accordance with the foregoing in a prudent and commercially reasonable manner, Lender and the applicable Indemnified Person shall not compromise or settle such action defended without Borrower's consent, which shall not be unreasonably withheld or delayed. Upon demand, Borrower shall pay or, in the sole discretion of the applicable Indemnified Person, reimburse the applicable Indemnified Person for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals retained by the applicable Indemnified Person in accordance with this **Section 9.15** in connection with defending any claim subject to indemnification hereunder.

(d) Any amounts payable to Lender by reason of the application of this **Section 9.15** shall be secured by the Mortgages and shall become immediately due and payable and shall bear interest at the Default Rate from the date Damages are sustained by the Indemnified Person until paid.

(e) The provisions of and undertakings and indemnification set forth in this **Section 9.15** shall survive the satisfaction and payment in full of the Indebtedness and termination of this Agreement.

(f) Borrower covenants and agrees to pay or, if Borrower fails to pay, to reimburse, Lender upon receipt of written notice from Lender for all reasonable and customary costs and expenses (including reasonable attorneys' fees and expenses) incurred by Lender in connection with (i) the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby and all the costs of furnishing all opinions by counsel for Borrower (including without limitation any opinions requested by Borrower as to any legal matters arising under this Agreement or the other Loan Documents with respect to the Property); (ii) Borrower's ongoing performance of and compliance with Borrower's respective agreements and covenants contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date, including, without limitation, confirming compliance with environmental and insurance requirements; (iii) Lender's ongoing performance and compliance with all agreements and conditions contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date; (iv) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Agreement and the other Loan Documents and any other documents or matters requested by Borrower; (v) securing Borrower's compliance with any requests made pursuant to the provisions of this Agreement; (vi) the reasonable filing and recording fees and expenses, title insurance and reasonable fees and expenses of counsel for providing to Lender all required legal opinions, and other similar expenses incurred in creating and perfecting the Liens in favor of Lender pursuant to this Agreement and the other Loan Documents; (vii) enforcing or preserving any rights, in response to third party claims or the prosecuting or defending of any action or proceeding or other litigation, in each case against, under or affecting Borrower, this Agreement, the other Loan Documents, the Properties, or any other security given for the Loan; and (ix) enforcing any obligations of or collecting any payments due from Borrower under this Agreement, the other Loan Documents or with respect to the Properties, or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or of any insolvency or bankruptcy proceedings or any other amounts required under **Section 8.3**; **provided, however**, that Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of Lender. Any cost and expenses due and payable to Lender may be paid from any amounts in the Cash Management Account.

Section 9.16 No Third-Party Beneficiaries. This Agreement and the other Loan Documents are solely for the benefit of Lender and Borrower, and nothing contained in this Agreement or the other Loan Documents shall be deemed to confer upon anyone other than Lender, Borrower and Indemnified Person any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender, and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof, and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so. Notwithstanding the foregoing, Borrower expressly acknowledges and agrees that any assignee, transferee or pledgee pursuant to **Section 8.1.1(a)(ii)** of this Agreement of which it has received written notice is an intended third-party beneficiary of this Agreement.

Section 9.17 Exculpation of Lender. Lender neither undertakes nor assumes any responsibility or duty to Borrower or any other party to select, review, inspect, examine, supervise, pass judgment upon or inform Borrower or any third party of (a) the existence, quality, adequacy or suitability of Broker Price Opinions of the Properties or other Collateral, (b) any environmental report, or (c) any other matters or items, including engineering, soils and seismic reports that are contemplated in the Loan Documents. Any such selection, review, inspection, examination and the like, and any other due diligence conducted by Lender, is solely for the purpose of protecting Lender's rights under the Loan Documents, and shall not render Lender liable to Borrower or any third party for the existence, sufficiency, accuracy, completeness or legality thereof.

Section 9.18 No Fiduciary Duty.

(a) Borrower acknowledges that, in connection with this Agreement, the other Loan Documents and the Transaction, Lender has relied upon and assumed the accuracy and completeness of all of the financial, legal, regulatory, accounting, tax and other information provided to, discussed with or reviewed by Lender for such purposes, and Lender does not assume any liability therefor or responsibility for the accuracy, completeness or independent verification thereof. Lender, its affiliates and their respective equityholders and employees (for purposes of this Section, the “**Lending Parties**”) have no obligation to conduct any independent evaluation or appraisal of the assets or liabilities (including any contingent, derivative or off-balance sheet assets and liabilities) of Parent, Borrower or any other Person or any of their respective affiliates or to advise or opine on any related solvency or viability issues.

(b) It is understood and agreed that (i) the Lending Parties shall act under this Agreement and the other Loan Documents as an independent contractor, (ii) the Transaction is an arm’s-length commercial transaction between the Lending Parties, on the one hand, and Borrower, on the other, (iii) each Lending Party is acting solely as principal and not as the agent or fiduciary of Borrower, Parent or their respective affiliates, stockholders, employees or creditors or any other Person and (iv) nothing in this Agreement, the other Loan Documents, the Transaction or otherwise shall be deemed to create (A) a fiduciary duty (or other implied duty) on the part of any Lending Party to Parent, Borrower, any of their respective affiliates, stockholders, employees or creditors, or any other Person or (B) a fiduciary or agency relationship between Parent, Borrower or any of their respective affiliates, stockholders, employees or creditors, on the one hand, and the Lending Parties, on the other. Borrower agrees that neither it nor Parent nor any of their respective affiliates shall make, and hereby waives, any claim against the Lending Parties based on an assertion that any Lending Party has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to Borrower, Parent or their respective affiliates, stockholders, employees or creditors. Nothing in this Agreement or the other Loan Documents is intended to confer upon any other Person (including affiliates, stockholders, employees or creditors of Borrower and Parent) any rights or remedies by reason of any fiduciary or similar duty.

(c) Borrower acknowledges that it has been advised that the Lending Parties are a financial services firm engaged, either directly or through affiliates in various activities, including securities trading, investment banking and financial advisory, investment management, principal investment, hedging, financing and brokerage activities and financial planning and benefits counseling for both companies and individuals. In the ordinary course of these activities, the Lending Parties may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and/or financial instruments (including loans) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and/or instruments. Such investment and other activities may involve securities and instruments of affiliates of Borrower, including Parent, as well as of other Persons that may (i) be involved in transactions arising from or relating to the Transaction, (ii) be customers or competitors of Borrower, Parent and/or their respective affiliates, or (iii) have other relationships with Borrower, Parent and/or their respective affiliates. In addition, the Lending Parties may provide investment banking, underwriting and financial advisory services to such other Persons. The Lending Parties may also co-invest with, make direct investments in, and invest or co-invest client monies in or with funds or other investment vehicles managed by other parties, and such funds or other investment vehicles may trade or make investments in securities of affiliates of Borrower, including Parent, or such other Persons. The Transaction may have a direct or indirect impact on the investments, securities or instruments referred to in this **Section 9.18(c)**. Although the Lending Parties in the course of such other activities and relationships may acquire information about the Transaction or other Persons that may be the subject of the Transaction, the Lending Parties shall have no obligation to disclose such information, or the fact that the Lending Parties are in possession of such information, to Borrower, Parent or any of their respective affiliates or to use such information on behalf of Borrower, Parent or any of their respective affiliates.

(d) Borrower acknowledges and agrees that Borrower has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to this Agreement, the other Loan Documents, the Transaction and the process leading thereto.

Section 9.19 Patriot Act Records. Lender hereby notifies Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies Borrower and Parent, which

information includes the name and address of Borrower and Parent and other information that will allow Lender to identify Borrower or Parent in accordance with the Patriot Act.

Section 9.20 Prior Agreements. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS CONTAIN THE ENTIRE AGREEMENT OF THE PARTIES WITH RESPECT TO THE LOAN, AND ALL PRIOR AGREEMENTS AMONG OR BETWEEN SUCH PARTIES, WHETHER ORAL OR WRITTEN, INCLUDING ANY TERM SHEETS, CONFIDENTIALITY AGREEMENTS AND COMMITMENT LETTERS, ARE SUPERSEDED BY THE TERMS OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCEPT THAT THE PURCHASE AGREEMENT AND ANY ORIGINATION FEE SPECIFIED IN ANY TERM SHEET, COMMITMENT LETTER OR FEE LETTER SHALL BE AN OBLIGATION OF BORROWER AND SHALL BE PAID AT CLOSING, AND ANY INDEMNIFICATIONS, FLEX PROVISION, EXIT FEES AND THE LIKE PROVIDED FOR THEREIN SHALL SURVIVE THE CLOSING).

Section 9.21 Publicity; Confidential Information. All news releases, publicity or advertising by Borrower or its Affiliates through any media intended to reach the general public which refers to the Loan Documents or the financing evidenced by the Loan Documents, to Lender, or any of its Affiliates (with respect to the Loan only) shall be subject to the prior written approval of Lender in its sole discretion, unless such disclosure is required by any applicable Legal Requirement. Subject to prior consent of Borrower, Lender shall have the right to publicly describe the Loan in general terms advertising and public communications of all kinds, including press releases, direct mail, newspapers, magazines, journals, e-mail, or internet advertising or communications. Details such as the addresses of the Properties, the amount of the Loan, the date of the closing and descriptions of the size/locations of the Properties shall only be included subject to Borrower's approval in advance. Notwithstanding the foregoing, Borrower's approval shall not be required for the publication by Lender of notice of the Loan by means of a customary tombstone advertisement, which, for the avoidance of doubt, may include the amount of the Loan, the amount of securities sold, the number of Properties as of the Closing Date, the settlement date and the parties involved in the transactions contemplated hereby. Borrower may disclose to Lender, either directly or indirectly, in writing, orally or by inspection of intangible objects (including, without limitation, documents), certain confidential or proprietary information including, without limitation, the names and addresses of tenants, the Properties, customers, marketing plans and objectives, research and test results, operating budgets and other information that is confidential and the property of Borrower ("**Confidential Information**"). The parties agree that the term Confidential Information shall include (a) information concerning tenants of each Property and prospective tenants of any Property, including nonpublic personal information as defined under the Gramm-Leach-Bliley Act of 1999 and implementing regulations, including all nonpublic personal information of or related to customers or consumers of Borrower, including but not limited to names, addresses, telephone numbers, account numbers, customer lists, credit scores, and account, financial, transaction information, consumer reports and information derived from consumer reports, that is subject to protection from publication under applicable law (collectively, "**Customer Information**"), and (b) business information (including all operating budgets, marketing plans, products and services, employee information, business models, know-how, strategies, designs, reports, data, research, financial information, pricing information, corporate client information, market definitions and information, and business inventions and ideas), and (d) technical information (including software, algorithms, models, developments, inventions. Lender agrees that any Confidential Information shall be used by Lender solely in the performance of its obligations under the Loan Documents. Lender (including, without limitation, its Affiliates, officers, directors, counsel, representatives, employees, advisors, accountants, auditors, attorneys or agents (collectively, "**Representatives**")) shall receive Confidential Information in confidence and shall not, without the prior written consent of Borrower, disclose any Confidential Information; provided, however, that there shall be no obligation on the part of Lender to maintain in confidence any Confidential Information disclosed to it by the other which (i) is generally known to the trade or the public or otherwise in the public domain at the time of such disclosure, (ii) becomes generally known to the trade or the public subsequent to the time of such disclosure, but not as a result of disclosure by the other in violation of this Agreement, or (iii) is legally received by Lender or any of its Representatives from a third party on a non-confidential basis provided that to Lender's knowledge such third party is not prohibited from disclosing such information to Lender by a contractual, legal or fiduciary obligation to Lender or its Representatives. Notwithstanding anything contained herein to the contrary, Lender shall be permitted to disclose the Confidential Information to any Governmental Authority pursuant to applicable laws or

in the course of an examination, inquiry, routine audit, subpoena or court order without notice to, or consent by, Borrower.

Section 9.22 Delay Not a Waiver. Neither any failure nor any delay on the part of Lender in insisting upon strict performance of any term, condition, covenant or agreement, or exercising any right, power, remedy or privilege hereunder, under any other Loan Document, or under any other instrument given as security therefor, shall operate as or constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other future exercise, or the exercise of any other right, power, remedy or privilege. In particular, and not by way of limitation, by accepting payment after the due date of any amount payable hereunder or under any other Loan Document, Lender shall not be deemed to have waived any right either to require prompt payment when due of all other amounts due under this Agreement, the Note or the other Loan Documents, or to declare a default for failure to effect prompt payment of any such other amount.

Section 9.23 Schedules and Exhibits Incorporated. The Schedules and Exhibits annexed hereto are hereby incorporated herein as a part of this Agreement with the same effect as if set forth in the body hereof.

Section 9.24 Document Delivery. Borrower will deliver to Lender all documents required to be delivered under this Agreement in an electronic format reasonably agreed by Lender and Borrower.

Section 9.25 Cross Default; Cross Collateralization; Waiver of Marshalling of Assets.

(a) Borrower acknowledges that Lender has made the Loan to Borrower upon the security of its collective interest in the Properties and in reliance upon the aggregate of the Properties taken together being of greater value as collateral security than the sum of each Property taken separately. Borrower agrees that the Mortgages are and will be cross-collateralized and cross-defaulted with each other so that (i) an Event of Default under any of the Mortgages shall constitute an Event of Default under each of the other Mortgages which secure the Note; (ii) an Event of Default under the Note or this Agreement shall constitute an Event of Default under each Mortgage; (iii) each Mortgage shall constitute security for the Note as if a single blanket lien were placed on all of the Properties as security for the Note; and (iv) such cross-collateralization shall in no event be deemed to constitute a fraudulent conveyance.

(b) To the fullest extent permitted by law, Borrower, for itself and its successors and assigns, waives all rights to a marshalling of the assets of Borrower, Equity Owner and others with interests in Borrower, and of the Properties, or to a sale in inverse order of alienation in the event of foreclosure of all or any of the Mortgages, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of the Properties for the collection of the Debt without any prior or different resort for collection or of the right of Lender to the payment of the Debt out of the net proceeds of the Properties in preference to every other claimant whatsoever. In addition, Borrower, for itself and its successors and assigns, waives in the event of foreclosure of any or all of the Mortgages, any equitable right otherwise available to Borrower which would require the separate sale of the Properties or require Lender to exhaust its remedies against any Property or any combination of the Properties before proceeding against any other Property or combination of Properties; and further in the event of such foreclosure Borrower does hereby expressly consents to and authorizes, at the option of Lender, the foreclosure and sale either separately or together of any combination of the Properties.

Section 9.26 Survival. This Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by Lender of the Loan and the execution and delivery to Lender of the Note, and shall continue in full force and effect so long as all or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth herein or in the other Loan Documents. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Agreement, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and assigns of Lender.

Section 9.27 State Specific Provisions.

9.27.1 Reserved.

9.27.2 Georgia. The following Georgia provisions are not intended to, and do not, limit the express choice of New York law set forth in **Section 9.3** of this Agreement and as set forth in the other Loan Documents, and are set forth herein, if and to the extent that, notwithstanding the choice of law provisions contained in this Agreement and the other Loan Documents, Georgia law is held to govern any Mortgage encumbering a Property located in Georgia or any other Loan Document:

(a) Notwithstanding anything contained in this Agreement or any other Loan Document, in any instance where Borrower or any other Loan Party is required to reimburse Lender for any legal fees or expenses incurred by Lender or Servicer, (i) “reasonable attorneys’ fees,” “reasonable counsel’s fees,” “attorneys’ fees” and other words of similar import, are not, and shall not be statutory attorneys’ fees under O.C.G.A. § 13-1-11, (ii) if, under any circumstances a Loan Party is required to pay any or all of Lender’s or Servicer’s respective attorneys’ fees and expenses, howsoever described or referenced, such Loan Party shall be responsible only for reasonable legal fees and out of pocket expenses actually incurred by Lender or Servicer at customary hourly rates actually charged to Lender or Servicer for the work done, and (iii) no Loan Party shall be liable under any circumstances for additional attorneys’ fees or expenses, howsoever described or referenced, under O.C.G.A. § 13-1-11.

9.27.3 Indiana. The following Indiana provisions are not intended to, and do not, limit the express choice of New York law set forth in **Section 9.3** of this Agreement and as set forth in the other Loan Documents, and are set forth herein, if and to the extent that, notwithstanding the choice of law provisions contained in this Agreement and the other Loan Documents, Indiana law is held to govern any Mortgage encumbering a Property located in Indiana or any other Loan Document:

(a) Borrower waives, to the extent not prohibited by the laws of the State of Indiana, the benefit of all laws now existing or that hereafter may be enacted providing for any appraisal or valuation of any portion of the Property.

(b) The phrase “attorneys’ fees”, when used herein or in the other Loan Documents shall include any and all attorneys’, paralegals’ and law clerks’ fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, or any part thereof and enforcing its rights hereunder.

(c) The term “Obligations” as defined in this Agreement shall include, without limitation, any judgment(s) or final decree(s) rendered to collect any money obligations of Borrower to Lender and/or to enforce the performance or collection of all covenants, agreements, other obligations and liabilities of Borrower under this Agreement or any or all of the Loan Documents; **provided, however,** such Obligations shall not include any judgment(s) or final decree(s) rendered in another jurisdiction, which judgment(s) or final decree(s) would be unenforceable by an Indiana Court pursuant to Ind. Code §34-54-3-4.

(d) IT IS EXPRESSLY AGREED AND UNDERSTOOD BY BORROWER THAT THIS AGREEMENT INCLUDES INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, INCLUDE AN INDEMNIFICATION BY BORROWER OF AN INDEMNIFIED PERSON FROM CLAIMS OR LOSSES ARISING AS A RESULT OF SUCH INDEMNIFIED PERSON’S SOLE NEGLIGENCE.

9.27.4 North Carolina. The following North Carolina provisions are not intended to, and do not, limit the express choice of New York law set forth in **Section 9.3** of this Agreement and as set forth in the other Loan Documents, and are set forth herein, if and to the extent that, notwithstanding the choice of law provisions contained in this Agreement and the other Loan Documents, North Carolina law is held to govern any Mortgage encumbering a Property located in North Carolina or any other Loan Document:

(a) Notwithstanding anything contained in this Agreement or any other Loan Document, in any instance where Borrower or any other Loan Party is required to reimburse Lender for any legal fees or expenses incurred by Lender or Servicer, (i) “reasonable attorneys’ fees,” “reasonable counsel’s fees,” “attorneys’ fees” and other words of similar import, are not, and shall not be statutory attorneys’ fees under NCGS § 6.21.2, (ii) if, under any circumstances a Loan Party is required to pay any or all of Lender’s or Servicer’s respective attorneys’ fees and expenses, howsoever described or referenced, such Loan Party shall be responsible only for reasonable legal fees and out of pocket expenses actually incurred by Lender or Servicer at customary hourly rates actually charged to Lender or Servicer for the work done, and (iii) no Loan Party shall be liable under any circumstances for additional attorneys’ fees or expenses, howsoever described or referenced, under NCGS § 6.21.2.

9.27.5 Reserved.

9.27.6 South Carolina. The following South Carolina provision is not intended to, and does not, limit the express choice of New York law set forth in **Section 9.3** of this Agreement and as set forth in the other Loan Documents, and are set forth herein, if and to the extent that, notwithstanding the choice of law provisions contained in this Agreement and the other Loan Documents, South Carolina law is held to govern any Mortgage encumbering a Property located in South Carolina or any other Loan Document:

(a) The laws of South Carolina provide that in any real estate foreclosure proceeding, a defendant against whom a personal judgment is taken or asked may, within thirty (30) days after the sale of the mortgaged property, apply to the court for an order of appraisal. The statutory appraisal value as approved by the court will be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE PROPERTY.**

(b) **THE UNDERSIGNED ACKNOWLEDGES AND AFFIRMS THAT IT RECEIVED WRITTEN NOTIFICATION BEFORE THE TRANSACTION THAT A WAIVER OF APPRAISAL RIGHTS WAS REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF S.C. CODE ANN. SECTION 29-3-680**

9.27.7 Tennessee. The following Tennessee provision is not intended to, and does not, limit the express choice of New York law set forth in **Section 9.3** of this Agreement and as set forth in the other Loan Documents, and are set forth herein, if and to the extent that, notwithstanding the choice of law provisions contained in this Agreement and the other Loan Documents, Tennessee law is held to govern any Mortgage encumbering a Property located in Tennessee or any other Loan Document:

(a) The provisions of the Loan Documents as to payment of attorneys' fees and expenses of collection (i) will be subject to the discretion of the court as to the award and the amount of attorneys’ fees, and (ii) may be subject to T.C.A § 20-12-119(c), which requires a court to award certain litigation costs and reasonable and necessary attorneys’ fees, up to \$10,000, to the successful party if the court grants a motion to dismiss pursuant to Rule 12 of the Tennessee Rules of Civil Procedure for failure to state a claim upon which relief may be granted.

Section 9.28 Preferences. Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by Borrower to any portion of the obligations of Borrower hereunder. To the extent Borrower makes a payment or payments to Lender, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the obligations hereunder or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by Lender.

Section 9.29 Waiver of Notice. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Agreement or the other Loan Documents specifically and expressly provide for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. Borrower hereby

expressly waives the right to receive any notice from Lender with respect to any matter for which this Agreement or the other Loan Documents do not specifically and expressly provide for the giving of notice by Lender to Borrower.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

PURSUANT TO THE PROVISIONS OF S.C. CODE ANN. SECTION 29-3-680,

THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE PROPERTY.

THE UNDERSIGNED ACKNOWLEDGES AND AFFIRMS THAT IT RECEIVED WRITTEN NOTIFICATION BEFORE THE TRANSACTION THAT A WAIVER OF APPRAISAL RIGHTS WAS REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF S.C. CODE ANN. SECTION 29-3-680.

BORROWER:

SFR MT LLC, a Delaware limited liability company

By: /s/ Raul E. Moreno

Name: Raul E. Moreno

Title: Secretary

LENDER:

METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation

By: MetLife Investment Advisors, LLC, its investment manager

By: /s/ Scott Waterstredt
Scott Waterstredt
Managing Director

Exhibit 31.1

I, David N. Roberts, certify that:

1. I have reviewed this quarterly report on Form 10-Q of AG Mortgage Investment Trust, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2018

/s/ David N. Roberts

David N. Roberts

Chief Executive Officer

Exhibit 31.2

I, Brian C. Sigman, certify that:

1. I have reviewed this quarterly report on Form 10-Q of AG Mortgage Investment Trust, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2018

/s/ Brian C. Sigman

Brian C. Sigman
Chief Financial Officer and
Treasurer

EXHIBIT 32.1

**CERTIFICATION 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 Quarterly Report on Form 10-Q of AG Mortgage Investment Trust, Inc. (the "Company") for the quarterly period ended September 30, 2018 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David N. Roberts, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (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 at the dates of, and for the periods covered by, the Report.

It is not intended that this statement be deemed to be filed for purposes of the Securities Exchange Act of 1934.

/s/ David N. Roberts

David N. Roberts

Chief Executive Officer

November 9, 2018

EXHIBIT 32.2

**CERTIFICATION 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 Quarterly Report on Form 10-Q of AG Mortgage Investment Trust, Inc. (the "Company") for the quarterly period ended September 30, 2018 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Brian C. Sigman, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (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 at the dates of, and for the periods covered by, the Report.

It is not intended that this statement be deemed to be filed for purposes of the Securities Exchange Act of 1934.

/s/ Brian C. Sigman

Brian C. Sigman
Chief Financial Officer and
Treasurer
November 9, 2018