

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended June 30, 2021

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from [ ] to [ ]



**HIGHWOODS PROPERTIES, INC.**

(Exact name of registrant as specified in its charter)

**Maryland**  
(State or other jurisdiction of incorporation or organization)

**001-13100**  
(Commission File Number)

**56-1871668**  
(I.R.S. Employer Identification Number)

**HIGHWOODS REALTY LIMITED PARTNERSHIP**

(Exact name of registrant as specified in its charter)

**North Carolina**  
(State or other jurisdiction of incorporation or organization)

**000-21731**  
(Commission File Number)

**56-1869557**  
(I.R.S. Employer Identification Number)

**3100 Smoketree Court, Suite 600**

**Raleigh, NC 27604**

(Address of principal executive offices) (Zip Code)

**919-872-4924**

(Registrants' telephone number, including area code)

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

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on Which Registered
Common Stock, \$.01 par value, of Highwoods Properties, Inc.	HIW	New York Stock Exchange

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.

**Highwoods Properties, Inc.** Yes  No  **Highwoods Realty Limited Partnership** Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

**Highwoods Properties, Inc.** Yes  No  **Highwoods Realty Limited Partnership** 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.

**Highwoods Properties, Inc.**

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

**Highwoods Realty Limited Partnership**

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.

**Highwoods Properties, Inc.**  **Highwoods Realty Limited Partnership**

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

**Highwoods Properties, Inc.** Yes  No  **Highwoods Realty Limited Partnership** Yes  No

The Company had 104,209,513 shares of Common Stock outstanding as of July 20, 2021.

## EXPLANATORY NOTE

We refer to Highwoods Properties, Inc. as the “Company,” Highwoods Realty Limited Partnership as the “Operating Partnership,” the Company’s common stock as “Common Stock” or “Common Shares,” the Company’s preferred stock as “Preferred Stock” or “Preferred Shares,” the Operating Partnership’s common partnership interests as “Common Units” and the Operating Partnership’s preferred partnership interests as “Preferred Units.” References to “we” and “our” mean the Company and the Operating Partnership, collectively, unless the context indicates otherwise.

The Company conducts its activities through the Operating Partnership and is its sole general partner. The partnership agreement provides that the Operating Partnership will assume and pay when due, or reimburse the Company for payment of, all costs and expenses relating to the ownership and operations of, or for the benefit of, the Operating Partnership. The partnership agreement further provides that all expenses of the Company are deemed to be incurred for the benefit of the Operating Partnership.

Certain information contained herein is presented as of July 20, 2021, the latest practicable date for financial information prior to the filing of this Quarterly Report.

This report combines the Quarterly Reports on Form 10-Q for the period ended June 30, 2021 of the Company and the Operating Partnership. We believe combining the quarterly reports into this single report results in the following benefits:

- combined reports better reflect how management and investors view the business as a single operating unit;
- combined reports enhance investors’ understanding of the Company and the Operating Partnership by enabling them to view the business as a whole and in the same manner as management;
- combined reports are more efficient for the Company and the Operating Partnership and result in savings in time, effort and expense; and
- combined reports are more efficient for investors by reducing duplicative disclosure and providing a single document for their review.

To help investors understand the significant differences between the Company and the Operating Partnership, this report presents the following separate sections for each of the Company and the Operating Partnership:

- Consolidated Financial Statements;
  - Note 13 to Consolidated Financial Statements - Earnings Per Share and Per Unit;
  - Item 4 - Controls and Procedures; and
  - Item 6 - Certifications of CEO and CFO Pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act.
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**HIGHWOODS PROPERTIES, INC.  
HIGHWOODS REALTY LIMITED PARTNERSHIP**

**QUARTERLY REPORT FOR THE PERIOD ENDED JUNE 30, 2021**

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## PART I - FINANCIAL INFORMATION

## ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

## HIGHWOODS PROPERTIES, INC.

## Consolidated Balance Sheets

(Unaudited and in thousands, except share and per share data)

	June 30, 2021	December 31, 2020
<b>Assets:</b>		
Real estate assets, at cost:		
Land	\$ 489,894	\$ 466,872
Buildings and tenant improvements	5,139,518	4,981,637
Development in-process	250,338	259,681
Land held for development	147,386	131,474
	6,027,136	5,839,664
Less-accumulated depreciation	(1,478,227)	(1,418,379)
Net real estate assets	4,548,909	4,421,285
Real estate and other assets, net, held for sale	—	11,360
Cash and cash equivalents	6,535	109,322
Restricted cash	51,898	79,922
Accounts receivable	15,927	27,488
Mortgages and notes receivable	1,264	1,341
Accrued straight-line rents receivable	267,603	259,381
Investments in and advances to unconsolidated affiliates	714	27,104
Deferred leasing costs, net of accumulated amortization of \$140,257 and \$151,698, respectively	216,318	209,329
Prepaid expenses and other assets, net of accumulated depreciation of \$19,717 and \$21,154, respectively	127,853	62,885
Total Assets	<u>\$ 5,237,021</u>	<u>\$ 5,209,417</u>
<b>Liabilities, Noncontrolling Interests in the Operating Partnership and Equity:</b>		
Mortgages and notes payable, net	\$ 2,475,902	\$ 2,470,021
Accounts payable, accrued expenses and other liabilities	265,296	268,727
Total Liabilities	2,741,198	2,738,748
Commitments and contingencies		
Noncontrolling interests in the Operating Partnership	128,180	112,499
Equity:		
Preferred Stock, \$.01 par value, 50,000,000 authorized shares;		
8.625% Series A Cumulative Redeemable Preferred Shares (liquidation preference \$1,000 per share), 28,821 and 28,826 shares issued and outstanding, respectively	28,821	28,826
Common Stock, \$.01 par value, 200,000,000 authorized shares;		
104,209,513 and 103,921,546 shares issued and outstanding, respectively	1,042	1,039
Additional paid-in capital	2,989,405	2,993,946
Distributions in excess of net income available for common stockholders	(672,239)	(686,225)
Accumulated other comprehensive loss	(1,225)	(1,462)
Total Stockholders' Equity	2,345,804	2,336,124
Noncontrolling interests in consolidated affiliates	21,839	22,046
Total Equity	2,367,643	2,358,170
Total Liabilities, Noncontrolling Interests in the Operating Partnership and Equity	<u>\$ 5,237,021</u>	<u>\$ 5,209,417</u>

See accompanying notes to consolidated financial statements.

**HIGHWOODS PROPERTIES, INC.**  
**Consolidated Statements of Income**  
(Unaudited and in thousands, except per share amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Rental and other revenues</b>	\$ 185,502	\$ 183,153	\$ 369,307	\$ 375,953
<b>Operating expenses:</b>				
Rental property and other expenses	56,226	55,119	112,415	117,321
Depreciation and amortization	61,949	59,461	122,876	120,611
Impairments of real estate assets	—	1,778	—	1,778
General and administrative	10,107	10,084	20,059	21,014
Total operating expenses	128,282	126,442	255,350	260,724
<b>Interest expense</b>	19,001	19,840	38,769	41,117
<b>Other income</b>	332	588	644	657
<b>Gains on disposition of property</b>	22,862	318	41,799	153,385
<b>Equity in earnings of unconsolidated affiliates</b>	431	1,179	1,068	2,142
<b>Net income</b>	61,844	38,956	118,699	230,296
Net (income) attributable to noncontrolling interests in the Operating Partnership	(1,624)	(1,017)	(3,117)	(5,977)
Net (income) attributable to noncontrolling interests in consolidated affiliates	(294)	(289)	(575)	(574)
Dividends on Preferred Stock	(621)	(622)	(1,243)	(1,244)
<b>Net income available for common stockholders</b>	\$ 59,305	\$ 37,028	\$ 113,764	\$ 222,501
<b>Earnings per Common Share – basic:</b>				
Net income available for common stockholders	\$ 0.57	\$ 0.36	\$ 1.09	\$ 2.14
Weighted average Common Shares outstanding – basic	104,106	103,886	104,035	103,849
<b>Earnings per Common Share – diluted:</b>				
Net income available for common stockholders	\$ 0.57	\$ 0.36	\$ 1.09	\$ 2.14
Weighted average Common Shares outstanding – diluted	106,964	106,730	106,887	106,681

See accompanying notes to consolidated financial statements.

**HIGHWOODS PROPERTIES, INC.**  
**Consolidated Statements of Comprehensive Income**  
(Unaudited and in thousands)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Comprehensive income:</b>				
Net income	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Other comprehensive income/(loss):				
Unrealized losses on cash flow hedges	(11)	(103)	(11)	(1,236)
Amortization of cash flow hedges	126	75	248	3
Total other comprehensive income/(loss)	115	(28)	237	(1,233)
Total comprehensive income	61,959	38,928	118,936	229,063
Less-comprehensive (income) attributable to noncontrolling interests	(1,918)	(1,306)	(3,692)	(6,551)
Comprehensive income attributable to common stockholders	\$ 60,041	\$ 37,622	\$ 115,244	\$ 222,512

See accompanying notes to consolidated financial statements.

**HIGHWOODS PROPERTIES, INC.**  
**Consolidated Statements of Equity**  
(Unaudited and in thousands, except share amounts)

<b>Three Months Ended June 30, 2021</b>								
	Number of Common Shares	Common Stock	Series A Cumulative Redeemable Preferred Shares	Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Non-controlling Interests in Consolidated Affiliates	Distributions in Excess of Net Income Available for Common Stockholders	Total
<b>Balance at March 31, 2021</b>	104,055,152	\$ 1,041	\$ 28,826	\$ 2,986,462	\$ (1,340)	\$ 21,545	\$ (681,613)	\$ 2,354,921
Issuances of Common Stock, net of issuance costs and tax withholdings	158,188	1	—	7,094	—	—	—	7,095
Conversions of Common Units to Common Stock	1,000	—	—	44	—	—	—	44
Dividends on Common Stock (\$0.48 per share)	—	—	—	—	—	—	(49,931)	(49,931)
Dividends on Preferred Stock (\$21.5625 per share)	—	—	—	—	—	—	(621)	(621)
Adjustment of noncontrolling interests in the Operating Partnership to fair value	—	—	—	(6,068)	—	—	—	(6,068)
Issuances of restricted stock	1,484	—	—	—	—	—	—	—
Redemptions/repurchases of Preferred Stock	—	—	(5)	—	—	—	—	(5)
Share-based compensation expense, net of forfeitures	(6,311)	—	—	1,873	—	—	—	1,873
Net (income) attributable to noncontrolling interests in the Operating Partnership	—	—	—	—	—	—	(1,624)	(1,624)
Net (income) attributable to noncontrolling interests in consolidated affiliates	—	—	—	—	—	294	(294)	—
Comprehensive income:								
Net income	—	—	—	—	—	—	61,844	61,844
Other comprehensive income	—	—	—	—	115	—	—	115
<b>Total comprehensive income</b>	<b>104,209,513</b>	<b>\$ 1,042</b>	<b>\$ 28,821</b>	<b>\$ 2,989,405</b>	<b>\$ (1,225)</b>	<b>\$ 21,839</b>	<b>\$ (672,239)</b>	<b>\$ 2,367,643</b>
<b>Balance at June 30, 2021</b>	<b>104,209,513</b>	<b>\$ 1,042</b>	<b>\$ 28,821</b>	<b>\$ 2,989,405</b>	<b>\$ (1,225)</b>	<b>\$ 21,839</b>	<b>\$ (672,239)</b>	<b>\$ 2,367,643</b>

  

<b>Six Months Ended June 30, 2021</b>								
	Number of Common Shares	Common Stock	Series A Cumulative Redeemable Preferred Shares	Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Non-controlling Interests in Consolidated Affiliates	Distributions in Excess of Net Income Available for Common Stockholders	Total
<b>Balance at December 31, 2020</b>	103,921,546	\$ 1,039	\$ 28,826	\$ 2,993,946	\$ (1,462)	\$ 22,046	\$ (686,225)	\$ 2,358,170
Issuances of Common Stock, net of issuance costs and tax withholdings	109,130	1	—	5,896	—	—	—	5,897
Conversions of Common Units to Common Stock	1,000	—	—	44	—	—	—	44
Dividends on Common Stock (\$0.96 per share)	—	—	—	—	—	—	(99,778)	(99,778)
Dividends on Preferred Stock (\$43.125 per share)	—	—	—	—	—	—	(1,243)	(1,243)
Adjustment of noncontrolling interests in the Operating Partnership to fair value	—	—	—	(15,334)	—	—	—	(15,334)
Distributions to noncontrolling interests in consolidated affiliates	—	—	—	—	—	(782)	—	(782)
Issuances of restricted stock	184,584	—	—	—	—	—	—	—
Redemptions/repurchases of Preferred Stock	—	—	(5)	—	—	—	—	(5)
Share-based compensation expense, net of forfeitures	(6,747)	2	—	4,853	—	—	—	4,855
Net (income) attributable to noncontrolling interests in the Operating Partnership	—	—	—	—	—	—	(3,117)	(3,117)
Net (income) attributable to noncontrolling interests in consolidated affiliates	—	—	—	—	—	575	(575)	—
Comprehensive income:								
Net income	—	—	—	—	—	—	118,699	118,699
Other comprehensive income	—	—	—	—	237	—	—	237
<b>Total comprehensive income</b>	<b>104,209,513</b>	<b>\$ 1,042</b>	<b>\$ 28,821</b>	<b>\$ 2,989,405</b>	<b>\$ (1,225)</b>	<b>\$ 21,839</b>	<b>\$ (672,239)</b>	<b>\$ 2,367,643</b>
<b>Balance at June 30, 2021</b>	<b>104,209,513</b>	<b>\$ 1,042</b>	<b>\$ 28,821</b>	<b>\$ 2,989,405</b>	<b>\$ (1,225)</b>	<b>\$ 21,839</b>	<b>\$ (672,239)</b>	<b>\$ 2,367,643</b>

See accompanying notes to consolidated financial statements.

**HIGHWOODS PROPERTIES, INC.**  
**Consolidated Statements of Equity - Continued**  
(Unaudited and in thousands, except share amounts)

**Three Months Ended June 30, 2020**

	Number of Common Shares	Common Stock	Series A Cumulative Redeemable Preferred Shares	Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Non-controlling Interests in Consolidated Affiliates	Distributions in Excess of Net Income Available for Common Stockholders	Total
<b>Balance at March 31, 2020</b>	103,885,918	\$ 1,039	\$ 28,856	\$ 3,000,614	\$ (1,676)	\$ 22,097	\$ (696,070)	\$ 2,354,860
Issuances of Common Stock, net of issuance costs and tax withholdings	11,018	—	—	362	—	—	—	362
Dividends on Common Stock (\$0.48 per share)	—	—	—	—	—	—	(49,861)	(49,861)
Dividends on Preferred Stock (\$21.5625 per share)	—	—	—	—	—	—	(622)	(622)
Adjustment of noncontrolling interests in the Operating Partnership to fair value	—	—	—	(5,776)	—	—	—	(5,776)
Distributions to noncontrolling interests in consolidated affiliates	—	—	—	—	—	(631)	—	(631)
Redemptions/repurchases of Preferred Stock	—	—	(13)	—	—	—	—	(13)
Share-based compensation expense, net of forfeitures	—	—	—	1,242	—	—	—	1,242
Net (income) attributable to noncontrolling interests in the Operating Partnership	—	—	—	—	—	—	(1,017)	(1,017)
Net (income) attributable to noncontrolling interests in consolidated affiliates	—	—	—	—	—	289	(289)	—
Comprehensive income:								
Net income	—	—	—	—	—	—	38,956	38,956
Other comprehensive loss	—	—	—	—	(28)	—	—	(28)
Total comprehensive income	—	—	—	—	—	—	—	38,928
<b>Balance at June 30, 2020</b>	103,896,936	\$ 1,039	\$ 28,843	\$ 2,996,442	\$ (1,704)	\$ 21,755	\$ (708,903)	\$ 2,337,472

**Six Months Ended June 30, 2020**

	Number of Common Shares	Common Stock	Series A Cumulative Redeemable Preferred Shares	Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Non-controlling Interests in Consolidated Affiliates	Distributions in Excess of Net Income Available for Common Stockholders	Total
<b>Balance at December 31, 2019</b>	103,756,046	\$ 1,038	\$ 28,859	\$ 2,954,779	\$ (471)	\$ 22,010	\$ (831,808)	\$ 2,174,407
Issuances of Common Stock, net of issuance costs and tax withholdings	(2,248)	—	—	1,401	—	—	—	1,401
Dividends on Common Stock (\$0.96 per share)	—	—	—	—	—	—	(99,596)	(99,596)
Dividends on Preferred Stock (\$43.125 per share)	—	—	—	—	—	—	(1,244)	(1,244)
Adjustment of noncontrolling interests in the Operating Partnership to fair value	—	—	—	36,525	—	—	—	36,525
Distributions to noncontrolling interests in consolidated affiliates	—	—	—	—	—	(829)	—	(829)
Issuances of restricted stock	149,304	—	—	—	—	—	—	—
Redemptions/repurchases of Preferred Stock	—	—	(16)	—	—	—	—	(16)
Share-based compensation expense, net of forfeitures	(6,166)	1	—	3,737	—	—	—	3,738
Net (income) attributable to noncontrolling interests in the Operating Partnership	—	—	—	—	—	—	(5,977)	(5,977)
Net (income) attributable to noncontrolling interests in consolidated affiliates	—	—	—	—	—	574	(574)	—
Comprehensive income:								
Net income	—	—	—	—	—	—	230,296	230,296
Other comprehensive loss	—	—	—	—	(1,233)	—	—	(1,233)
Total comprehensive income	—	—	—	—	—	—	—	229,063
<b>Balance at June 30, 2020</b>	103,896,936	\$ 1,039	\$ 28,843	\$ 2,996,442	\$ (1,704)	\$ 21,755	\$ (708,903)	\$ 2,337,472

See accompanying notes to consolidated financial statements.



**HIGHWOODS PROPERTIES, INC.**  
**Consolidated Statements of Cash Flows**  
(Unaudited and in thousands)

	Six Months Ended June 30,	
	2021	2020
<b>Operating activities:</b>		
Net income	\$ 118,699	\$ 230,296
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	122,876	120,611
Amortization of lease incentives and acquisition-related intangible assets and liabilities	(1,439)	(1,278)
Share-based compensation expense	4,855	3,738
Net credit losses/(reversals) on operating lease receivables	(489)	2,333
Accrued interest on mortgages and notes receivable	(54)	(61)
Amortization of debt issuance costs	1,661	1,533
Amortization of cash flow hedges	248	3
Amortization of mortgages and notes payable fair value adjustments	776	852
Impairments of real estate assets	—	1,778
Losses on debt extinguishment	134	—
Net gains on disposition of property	(41,799)	(153,385)
Equity in earnings of unconsolidated affiliates	(1,068)	(2,142)
Distributions of earnings from unconsolidated affiliates	1,402	407
Changes in operating assets and liabilities:		
Accounts receivable	6,694	(1,031)
Prepaid expenses and other assets	(5,642)	(8,320)
Accrued straight-line rents receivable	(7,638)	(21,522)
Accounts payable, accrued expenses and other liabilities	(1,801)	6,403
Net cash provided by operating activities	197,415	180,215
<b>Investing activities:</b>		
Investments in acquired real estate and related intangible assets, net of cash acquired	(120)	(2,363)
Investments in development in-process	(54,365)	(83,071)
Investments in tenant improvements and deferred leasing costs	(44,827)	(85,544)
Investments in building improvements	(24,109)	(30,312)
Investment in acquired controlling interest in unconsolidated affiliate	(127,339)	—
Net proceeds from disposition of real estate assets	71,501	334,366
Distributions of capital from unconsolidated affiliates	—	72
Investments in mortgages and notes receivable	(23)	(32)
Repayments of mortgages and notes receivable	154	154
Payments of earnest money deposits	(55,000)	—
Changes in other investing activities	5,711	(3,541)
Net cash provided by/(used in) investing activities	(228,417)	129,729
<b>Financing activities:</b>		
Dividends on Common Stock	(99,778)	(99,596)
Redemptions/repurchases of Preferred Stock	(5)	(16)
Dividends on Preferred Stock	(1,243)	(1,244)
Distributions to noncontrolling interests in the Operating Partnership	(2,726)	(2,728)
Distributions to noncontrolling interests in consolidated affiliates	(782)	(829)
Proceeds from the issuance of Common Stock	7,763	2,753
Costs paid for the issuance of Common Stock	(185)	(228)
Repurchase of shares related to tax withholdings	(1,681)	(1,124)
Borrowings on revolving credit facility	230,000	129,000
Repayments of revolving credit facility	(75,000)	(336,000)
Repayments of mortgages and notes payable	(151,006)	(967)
Changes in debt issuance costs and other financing activities	(5,166)	—
Net cash used in financing activities	(99,809)	(310,979)
Net decrease in cash and cash equivalents and restricted cash	\$ (130,811)	\$ (1,035)

See accompanying notes to consolidated financial statements.

**HIGHWOODS PROPERTIES, INC.**  
**Consolidated Statements of Cash Flows – Continued**  
(Unaudited and in thousands)

	Six Months Ended June 30,	
	2021	2020
Net decrease in cash and cash equivalents and restricted cash	\$ (130,811)	\$ (1,035)
Cash and cash equivalents and restricted cash at beginning of the period	189,244	14,742
Cash and cash equivalents and restricted cash at end of the period	\$ 58,433	\$ 13,707

**Reconciliation of cash and cash equivalents and restricted cash:**

	Six Months Ended June 30,	
	2021	2020
Cash and cash equivalents at end of the period	\$ 6,535	\$ 4,752
Restricted cash at end of the period	51,898	8,955
Cash and cash equivalents and restricted cash at end of the period	\$ 58,433	\$ 13,707

**Supplemental disclosure of cash flow information:**

	Six Months Ended June 30,	
	2021	2020
Cash paid for interest, net of amounts capitalized	\$ 36,071	\$ 38,424

**Supplemental disclosure of non-cash investing and financing activities:**

	Six Months Ended June 30,	
	2021	2020
Unrealized losses on cash flow hedges	\$ (11)	\$ (1,236)
Conversions of Common Units to Common Stock	44	—
Changes in accrued capital expenditures (1)	(23,599)	(18,819)
Write-off of fully depreciated real estate assets	36,798	22,630
Write-off of fully amortized leasing costs	28,575	10,564
Write-off of fully amortized debt issuance costs	4,158	—
Adjustment of noncontrolling interests in the Operating Partnership to fair value	15,334	(36,525)
Issuances of Common Units to acquire real estate assets	—	6,163
Contingent consideration in connection with the acquisition of land	—	1,500
Future consideration in connection with the acquisition of land	16,000	—

(1) Accrued capital expenditures included in accounts payable, accrued expenses and other liabilities at June 30, 2021 and 2020 were \$42.3 million and \$49.1 million, respectively.

See accompanying notes to consolidated financial statements.

**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**Consolidated Balance Sheets**  
(Unaudited and in thousands, except unit and per unit data)

	June 30, 2021	December 31, 2020
<b>Assets:</b>		
Real estate assets, at cost:		
Land	\$ 489,894	\$ 466,872
Buildings and tenant improvements	5,139,518	4,981,637
Development in-process	250,338	259,681
Land held for development	147,386	131,474
	<u>6,027,136</u>	<u>5,839,664</u>
Less-accumulated depreciation	(1,478,227)	(1,418,379)
Net real estate assets	4,548,909	4,421,285
Real estate and other assets, net, held for sale	—	11,360
Cash and cash equivalents	6,535	109,322
Restricted cash	51,898	79,922
Accounts receivable	15,927	27,488
Mortgages and notes receivable	1,264	1,341
Accrued straight-line rents receivable	267,603	259,381
Investments in and advances to unconsolidated affiliates	714	27,104
Deferred leasing costs, net of accumulated amortization of \$140,257 and \$151,698, respectively	216,318	209,329
Prepaid expenses and other assets, net of accumulated depreciation of \$19,717 and \$21,154, respectively	127,853	62,885
Total Assets	<u>\$ 5,237,021</u>	<u>\$ 5,209,417</u>
<b>Liabilities, Redeemable Operating Partnership Units and Capital:</b>		
Mortgages and notes payable, net	\$ 2,475,902	\$ 2,470,021
Accounts payable, accrued expenses and other liabilities	265,296	268,727
Total Liabilities	<u>2,741,198</u>	<u>2,738,748</u>
Commitments and contingencies		
Redeemable Operating Partnership Units:		
Common Units, 2,837,725 and 2,838,725 outstanding, respectively	128,180	112,499
Series A Preferred Units (liquidation preference \$1,000 per unit), 28,821 and 28,826 units issued and outstanding, respectively	28,821	28,826
Total Redeemable Operating Partnership Units	<u>157,001</u>	<u>141,325</u>
Capital:		
Common Units:		
General partner Common Units, 1,066,384 and 1,063,515 outstanding, respectively	23,182	23,087
Limited partner Common Units, 102,734,320 and 102,449,222 outstanding, respectively	2,295,026	2,285,673
Accumulated other comprehensive loss	(1,225)	(1,462)
Noncontrolling interests in consolidated affiliates	21,839	22,046
Total Capital	<u>2,338,822</u>	<u>2,329,344</u>
Total Liabilities, Redeemable Operating Partnership Units and Capital	<u>\$ 5,237,021</u>	<u>\$ 5,209,417</u>

See accompanying notes to consolidated financial statements.

**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**Consolidated Statements of Income**  
(Unaudited and in thousands, except per unit amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Rental and other revenues</b>	\$ 185,502	\$ 183,153	\$ 369,307	\$ 375,953
<b>Operating expenses:</b>				
Rental property and other expenses	56,226	55,119	112,415	117,321
Depreciation and amortization	61,949	59,461	122,876	120,611
Impairments of real estate assets	—	1,778	—	1,778
General and administrative	10,107	10,084	20,059	21,014
Total operating expenses	<u>128,282</u>	<u>126,442</u>	<u>255,350</u>	<u>260,724</u>
<b>Interest expense</b>	19,001	19,840	38,769	41,117
<b>Other income</b>	332	588	644	657
<b>Gains on disposition of property</b>	22,862	318	41,799	153,385
<b>Equity in earnings of unconsolidated affiliates</b>	431	1,179	1,068	2,142
<b>Net income</b>	61,844	38,956	118,699	230,296
Net (income) attributable to noncontrolling interests in consolidated affiliates	(294)	(289)	(575)	(574)
Distributions on Preferred Units	(621)	(622)	(1,243)	(1,244)
<b>Net income available for common unitholders</b>	<u>\$ 60,929</u>	<u>\$ 38,045</u>	<u>\$ 116,881</u>	<u>\$ 228,478</u>
<b>Earnings per Common Unit – basic:</b>				
Net income available for common unitholders	\$ 0.57	\$ 0.36	\$ 1.10	\$ 2.15
Weighted average Common Units outstanding – basic	<u>106,535</u>	<u>106,319</u>	<u>106,464</u>	<u>106,259</u>
<b>Earnings per Common Unit – diluted:</b>				
Net income available for common unitholders	\$ 0.57	\$ 0.36	\$ 1.10	\$ 2.15
Weighted average Common Units outstanding – diluted	<u>106,555</u>	<u>106,321</u>	<u>106,478</u>	<u>106,272</u>

See accompanying notes to consolidated financial statements.

**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**Consolidated Statements of Comprehensive Income**  
(Unaudited and in thousands)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Comprehensive income:</b>				
Net income	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Other comprehensive income/(loss):				
Unrealized losses on cash flow hedges	(11)	(103)	(11)	(1,236)
Amortization of cash flow hedges	126	75	248	3
Total other comprehensive income/(loss)	115	(28)	237	(1,233)
Total comprehensive income	61,959	38,928	118,936	229,063
Less-comprehensive (income) attributable to noncontrolling interests	(294)	(289)	(575)	(574)
Comprehensive income attributable to common unitholders	<u>\$ 61,665</u>	<u>\$ 38,639</u>	<u>\$ 118,361</u>	<u>\$ 228,489</u>

See accompanying notes to consolidated financial statements.

**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**Consolidated Statements of Capital**  
(Unaudited and in thousands)

	<b>Three Months Ended June 30, 2021</b>				
	<b>Common Units</b>		<b>Accumulated Other Comprehensive Loss</b>	<b>Noncontrolling Interests in Consolidated Affiliates</b>	<b>Total</b>
	<b>General Partners' Capital</b>	<b>Limited Partners' Capital</b>			
<b>Balance at March 31, 2021</b>	\$ 23,059	\$ 2,282,831	\$ (1,340)	\$ 21,545	\$ 2,326,095
Issuances of Common Units, net of issuance costs and tax withholdings	71	7,024	—	—	7,095
Distributions on Common Units (\$0.48 per unit)	(511)	(50,587)	—	—	(51,098)
Distributions on Preferred Units (\$21.5625 per unit)	(6)	(615)	—	—	(621)
Share-based compensation expense, net of forfeitures	19	1,854	—	—	1,873
Adjustment of Redeemable Common Units to fair value and contributions/distributions from/to the General Partner	(65)	(6,416)	—	—	(6,481)
Net (income) attributable to noncontrolling interests in consolidated affiliates	(3)	(291)	—	294	—
Comprehensive income:					
Net income	618	61,226	—	—	61,844
Other comprehensive income	—	—	115	—	115
<b>Total comprehensive income</b>					<b>61,959</b>
<b>Balance at June 30, 2021</b>	<b>\$ 23,182</b>	<b>\$ 2,295,026</b>	<b>\$ (1,225)</b>	<b>\$ 21,839</b>	<b>\$ 2,338,822</b>

	<b>Six Months Ended June 30, 2021</b>				
	<b>Common Units</b>		<b>Accumulated Other Comprehensive Loss</b>	<b>Noncontrolling Interests in Consolidated Affiliates</b>	<b>Total</b>
	<b>General Partners' Capital</b>	<b>Limited Partners' Capital</b>			
<b>Balance at December 31, 2020</b>	\$ 23,087	\$ 2,285,673	\$ (1,462)	\$ 22,046	\$ 2,329,344
Issuances of Common Units, net of issuance costs and tax withholdings	59	5,838	—	—	5,897
Distributions on Common Units (\$0.96 per unit)	(1,021)	(101,091)	—	—	(102,112)
Distributions on Preferred Units (\$43.125 per unit)	(12)	(1,231)	—	—	(1,243)
Share-based compensation expense, net of forfeitures	49	4,806	—	—	4,855
Distributions to noncontrolling interests in consolidated affiliates	—	—	—	(782)	(782)
Adjustment of Redeemable Common Units to fair value and contributions/distributions from/to the General Partner	(161)	(15,912)	—	—	(16,073)
Net (income) attributable to noncontrolling interests in consolidated affiliates	(6)	(569)	—	575	—
Comprehensive income:					
Net income	1,187	117,512	—	—	118,699
Other comprehensive income	—	—	237	—	237
<b>Total comprehensive income</b>					<b>118,936</b>
<b>Balance at June 30, 2021</b>	<b>\$ 23,182</b>	<b>\$ 2,295,026</b>	<b>\$ (1,225)</b>	<b>\$ 21,839</b>	<b>\$ 2,338,822</b>

See accompanying notes to consolidated financial statements.

**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**Consolidated Statements of Capital - Continued**  
(Unaudited and in thousands)

	<b>Three Months Ended June 30, 2020</b>				
	<b>Common Units</b>		<b>Accumulated Other Comprehensive Loss</b>	<b>Noncontrolling Interests in Consolidated Affiliates</b>	<b>Total</b>
	<b>General Partners' Capital</b>	<b>Limited Partners' Capital</b>			
<b>Balance at March 31, 2020</b>	\$ 23,055	\$ 2,282,528	\$ (1,676)	\$ 22,097	\$ 2,326,004
Issuances of Common Units, net of issuance costs and tax withholdings	4	358	—	—	362
Distributions on Common Units (\$0.48 per unit)	(510)	(50,518)	—	—	(51,028)
Distributions on Preferred Units (\$21.5625 per unit)	(6)	(616)	—	—	(622)
Share-based compensation expense, net of forfeitures	12	1,230	—	—	1,242
Distributions to noncontrolling interests in consolidated affiliates	—	—	—	(631)	(631)
Adjustment of Redeemable Common Units to fair value and contributions/distributions from/to the General Partner	(56)	(5,570)	—	—	(5,626)
Net (income) attributable to noncontrolling interests in consolidated affiliates	(3)	(286)	—	289	—
Comprehensive income:					
Net income	390	38,566	—	—	38,956
Other comprehensive loss	—	—	(28)	—	(28)
Total comprehensive income					38,928
<b>Balance at June 30, 2020</b>	<u>\$ 22,886</u>	<u>\$ 2,265,692</u>	<u>\$ (1,704)</u>	<u>\$ 21,755</u>	<u>\$ 2,308,629</u>

	<b>Six Months Ended June 30, 2020</b>				
	<b>Common Units</b>		<b>Accumulated Other Comprehensive Loss</b>	<b>Noncontrolling Interests in Consolidated Affiliates</b>	<b>Total</b>
	<b>General Partners' Capital</b>	<b>Limited Partners' Capital</b>			
<b>Balance at December 31, 2019</b>	\$ 21,240	\$ 2,102,769	\$ (471)	\$ 22,010	\$ 2,145,548
Issuances of Common Units, net of issuance costs and tax withholdings	76	7,488	—	—	7,564
Distributions on Common Units (\$0.96 per unit)	(1,019)	(100,912)	—	—	(101,931)
Distributions on Preferred Units (\$43.125 per unit)	(12)	(1,232)	—	—	(1,244)
Share-based compensation expense, net of forfeitures	37	3,701	—	—	3,738
Distributions to noncontrolling interests in consolidated affiliates	—	—	—	(829)	(829)
Adjustment of Redeemable Common Units to fair value and contributions/distributions from/to the General Partner	267	26,453	—	—	26,720
Net (income) attributable to noncontrolling interests in consolidated affiliates	(6)	(568)	—	574	—
Comprehensive income:					
Net income	2,303	227,993	—	—	230,296
Other comprehensive loss	—	—	(1,233)	—	(1,233)
Total comprehensive income					229,063
<b>Balance at June 30, 2020</b>	<u>\$ 22,886</u>	<u>\$ 2,265,692</u>	<u>\$ (1,704)</u>	<u>\$ 21,755</u>	<u>\$ 2,308,629</u>

See accompanying notes to consolidated financial statements.

**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**Consolidated Statements of Cash Flows**  
(Unaudited and in thousands)

	Six Months Ended June 30,	
	2021	2020
<b>Operating activities:</b>		
Net income	\$ 118,699	\$ 230,296
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	122,876	120,611
Amortization of lease incentives and acquisition-related intangible assets and liabilities	(1,439)	(1,278)
Share-based compensation expense	4,855	3,738
Net credit losses/(reversals) on operating lease receivables	(489)	2,333
Accrued interest on mortgages and notes receivable	(54)	(61)
Amortization of debt issuance costs	1,661	1,533
Amortization of cash flow hedges	248	3
Amortization of mortgages and notes payable fair value adjustments	776	852
Impairments of real estate assets	—	1,778
Losses on debt extinguishment	134	—
Net gains on disposition of property	(41,799)	(153,385)
Equity in earnings of unconsolidated affiliates	(1,068)	(2,142)
Distributions of earnings from unconsolidated affiliates	1,402	407
Changes in operating assets and liabilities:		
Accounts receivable	6,694	(1,031)
Prepaid expenses and other assets	(5,642)	(8,320)
Accrued straight-line rents receivable	(7,638)	(21,522)
Accounts payable, accrued expenses and other liabilities	(1,801)	6,403
Net cash provided by operating activities	<u>197,415</u>	<u>180,215</u>
<b>Investing activities:</b>		
Investments in acquired real estate and related intangible assets, net of cash acquired	(120)	(2,363)
Investments in development in-process	(54,365)	(83,071)
Investments in tenant improvements and deferred leasing costs	(44,827)	(85,544)
Investments in building improvements	(24,109)	(30,312)
Investment in acquired controlling interest in unconsolidated affiliate	(127,339)	—
Net proceeds from disposition of real estate assets	71,501	334,366
Distributions of capital from unconsolidated affiliates	—	72
Investments in mortgages and notes receivable	(23)	(32)
Repayments of mortgages and notes receivable	154	154
Payments of earnest money deposits	(55,000)	—
Changes in other investing activities	5,711	(3,541)
Net cash provided by/(used in) investing activities	<u>(228,417)</u>	<u>129,729</u>
<b>Financing activities:</b>		
Distributions on Common Units	(102,112)	(101,931)
Redemptions/repurchases of Preferred Units	(5)	(16)
Distributions on Preferred Units	(1,243)	(1,244)
Distributions to noncontrolling interests in consolidated affiliates	(782)	(829)
Proceeds from the issuance of Common Units	7,763	2,753
Costs paid for the issuance of Common Units	(185)	(228)
Repurchase of units related to tax withholdings	(1,681)	(1,124)
Borrowings on revolving credit facility	230,000	129,000
Repayments of revolving credit facility	(75,000)	(336,000)
Repayments of mortgages and notes payable	(151,006)	(967)
Changes in debt issuance costs and other financing activities	(5,558)	(393)
Net cash used in financing activities	<u>(99,809)</u>	<u>(310,979)</u>
Net decrease in cash and cash equivalents and restricted cash	<u>\$ (130,811)</u>	<u>\$ (1,035)</u>

See accompanying notes to consolidated financial statements.



**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**Consolidated Statements of Cash Flows - Continued**  
(Unaudited and in thousands)

	Six Months Ended June 30,	
	2021	2020
Net decrease in cash and cash equivalents and restricted cash	\$ (130,811)	\$ (1,035)
Cash and cash equivalents and restricted cash at beginning of the period	189,244	14,742
Cash and cash equivalents and restricted cash at end of the period	\$ 58,433	\$ 13,707

**Reconciliation of cash and cash equivalents and restricted cash:**

	Six Months Ended June 30,	
	2021	2020
Cash and cash equivalents at end of the period	\$ 6,535	\$ 4,752
Restricted cash at end of the period	51,898	8,955
Cash and cash equivalents and restricted cash at end of the period	\$ 58,433	\$ 13,707

**Supplemental disclosure of cash flow information:**

	Six Months Ended June 30,	
	2021	2020
Cash paid for interest, net of amounts capitalized	\$ 36,071	\$ 38,424

**Supplemental disclosure of non-cash investing and financing activities:**

	Six Months Ended June 30,	
	2021	2020
Unrealized losses on cash flow hedges	\$ (11)	\$ (1,236)
Changes in accrued capital expenditures (1)	(23,599)	(18,819)
Write-off of fully depreciated real estate assets	36,798	22,630
Write-off of fully amortized leasing costs	28,575	10,564
Write-off of fully amortized debt issuance costs	4,158	—
Adjustment of Redeemable Common Units to fair value	15,681	(33,276)
Issuances of Common Units to acquire real estate assets	—	6,163
Contingent consideration in connection with the acquisition of land	—	1,500
Future consideration in connection with the acquisition of land	16,000	—

(1) Accrued capital expenditures included in accounts payable, accrued expenses and other liabilities at June 30, 2021 and 2020 were \$42.3 million and \$49.1 million, respectively.

See accompanying notes to consolidated financial statements.

**HIGHWOODS PROPERTIES, INC.**  
**HIGHWOODS REALTY LIMITED PARTNERSHIP**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**June 30, 2021**  
**(tabular dollar amounts in thousands, except per share and per unit data)**  
(Unaudited)

**1. Description of Business and Significant Accounting Policies**

**Description of Business**

Highwoods Properties, Inc. (the “Company”) is a fully integrated real estate investment trust (“REIT”) that provides leasing, management, development, construction and other customer-related services for its properties and for third parties. The Company conducts its activities through Highwoods Realty Limited Partnership (the “Operating Partnership”). At June 30, 2021, we owned or had an interest in 27.3 million rentable square feet of in-service properties, 0.8 million rentable square feet of office properties under development and approximately 250 acres of development land.

**Capital Structure**

The Company is the sole general partner of the Operating Partnership. At June 30, 2021, the Company owned all of the Preferred Units and 103.8 million, or 97.3%, of the Common Units in the Operating Partnership. Limited partners owned the remaining 2.8 million Common Units. During the six months ended June 30, 2021, the Company redeemed 1,000 Common Units for a like number of shares of Common Stock.

During 2020, we entered into separate equity distribution agreements in which the Company may offer and sell up to \$300.0 million in aggregate gross sales price of shares of Common Stock. During the six months ended June 30, 2021, the Company issued 149,100 shares of Common Stock under its equity distribution agreements at an average gross sales price of \$46.11 per share and received net proceeds, after sales commissions, of \$6.8 million.

**Basis of Presentation**

Our Consolidated Financial Statements are prepared in conformity with accounting principles generally accepted in the United States of America (“GAAP”).

The Company’s Consolidated Financial Statements include the Operating Partnership, wholly owned subsidiaries and those entities in which the Company has the controlling interest. The Operating Partnership’s Consolidated Financial Statements include wholly owned subsidiaries and those entities in which the Operating Partnership has the controlling interest. We consolidate joint venture investments, such as interests in partnerships and limited liability companies, when we control the major operating and financial policies of the investment through majority ownership, in our capacity as a general partner or managing member or through some other contractual right. We also consolidate those entities deemed to be variable interest entities in which we are determined to be the primary beneficiary. At June 30, 2021, we have involvement with, and are the primary beneficiary in, an entity that we concluded to be a variable interest entity (see Note 3). All intercompany transactions and accounts have been eliminated.

The unaudited interim consolidated financial statements and accompanying unaudited consolidated financial information, in the opinion of management, contain all adjustments (including normal recurring accruals) necessary for a fair presentation of our financial position, results of operations and cash flows. We have condensed or omitted certain notes and other information from the interim Consolidated Financial Statements presented in this Quarterly Report as permitted by SEC rules and regulations. These Consolidated Financial Statements should be read in conjunction with our 2020 Annual Report on Form 10-K.

**Use of Estimates**

The preparation of consolidated financial statements in accordance with GAAP requires us to make estimates and assumptions that affect the amounts reported in our Consolidated Financial Statements and accompanying notes. Actual results could differ from those estimates.

## **Insurance**

We are primarily self-insured for health care claims for participating employees. We have stop-loss coverage to limit our exposure to significant claims on a per claim and annual aggregate basis. We determine our liabilities for claims, including incurred but not reported losses, based on all relevant information, including actuarial estimates of claim liabilities. At June 30, 2021, a reserve of \$0.4 million was recorded to cover estimated reported and unreported claims.

## **Planned Investment Activities**

During the second quarter of 2021, we agreed to acquire a portfolio of office assets from Preferred Apartment Communities, Inc. (NYSE:APTS) (“PAC”). The core portfolio to be acquired consists of the following four Class A office assets in Charlotte and Raleigh, which encompass 1,630,000 square feet in total, and one mixed-use redevelopment site in Atlanta: 150 Fayetteville, Raleigh (CBD); CAPTRUST Tower, Raleigh (North Hills); Capitol Towers, Charlotte (SouthPark); Morrocroft Centre, Charlotte (SouthPark); and Galleria 75, Atlanta (Cumberland/Galleria). We have also agreed to acquire two non-core assets: a mezzanine loan related to a recently constructed office building in Atlanta; and Armour Yards, a multi-building creative office project in Atlanta. Our total investment, including the estimated value of the non-core assets, is expected to be \$769 million, which includes \$28 million of near-term building improvements and \$5 million of transaction costs. The transaction is expected to include, among other things, the assumption of four secured loans collateralized by the core office buildings estimated to be recorded at fair value of \$403 million in the aggregate, with a weighted average effective interest rate of 3.7% and a weighted average maturity of 10.8 years. The value of the non-core assets represents less than 12% of the anticipated total investment. The acquisition, which is subject to customary closing conditions, is scheduled to close within 30 days of the filing of this Quarterly Report. As of July 20, 2021, we have posted \$60.0 million of earnest money deposits (of which \$55.0 million were recorded in prepaid expenses and other assets at June 30, 2021) that are non-refundable except in limited circumstances. As part of the transaction, PAC will separately market Armour Yards for sale to a third party. If PAC chooses not to sell Armour Yards to a third party, we will close on the acquisition of the creative office project no later than the first quarter of 2022.

## **Recently Issued Accounting Standards**

The Financial Accounting Standards Board (“FASB”) issued an accounting standards update (“ASU”) that provides temporary optional expedients and exceptions to the guidance on contract modifications and hedge accounting to ease the financial reporting burdens related to the expected market transition from LIBOR and other interbank offered rates to alternative reference rates, such as the Secured Overnight Financing Rate (“SOFR”). Entities can elect not to apply certain modification accounting requirements to contracts affected by reference rate reform, if certain criteria are met. An entity that makes this election would not have to remeasure the contracts at the modification date or reassess a previous accounting determination. Entities can also elect various optional expedients that would allow them to continue applying hedge accounting for hedging relationships affected by reference rate reform, if certain criteria are met. The guidance in this ASU is optional and may be elected now through December 31, 2022 as reference rate reform activities occur. We will continue to evaluate the impact of this ASU; however, we currently expect to avail ourselves of such optional expedients and exceptions should our modified contracts meet the required criteria.

Due to the business disruptions and challenges severely affecting the global economy caused by the COVID-19 pandemic, lessors may provide rent deferrals and other lease concessions to lessees. In April 2020, the FASB staff issued a question and answer document (the “Lease Modification Q&A”) focused on the application of lease accounting guidance to lease concessions provided as a result of the COVID-19 pandemic. Under existing lease guidance, we would have to determine, on a lease by lease basis, if a lease concession was the result of a new arrangement reached with the tenant (treated within the lease modification accounting framework) or if a lease concession was under the enforceable rights and obligations within the existing lease agreement (precluded from applying the lease modification accounting framework). The Lease Modification Q&A allows us, if certain criteria have been met, to bypass the lease by lease analysis, and instead elect to either apply the lease modification accounting framework or not, with such election applied consistently to leases with similar characteristics and similar circumstances. We have elected the practical expedient and will not apply lease modification accounting on a lease by lease basis where applicable. As a result, \$1.6 million of deferred rent is included in accounts receivable on our Consolidated Balance Sheets at June 30, 2021.

## 2. Leases

We generally lease our office properties to lessees in exchange for fixed monthly payments that cover rent, property taxes, insurance and certain cost recoveries, primarily common area maintenance. Office properties owned by us that are under lease are primarily located in Atlanta, Charlotte, Nashville, Orlando, Pittsburgh, Raleigh, Richmond and Tampa and are leased to a wide variety of lessees across many industries. Our leases are operating leases and mostly range from three to 10 years. We recognized rental and other revenues related to operating lease payments of \$182.4 million and \$181.1 million during the three months ended June 30, 2021 and 2020, respectively, and \$362.4 million and \$370.7 million during the six months ended June 30, 2021 and 2020, respectively. Included in these amounts are variable lease payments of \$14.5 million and \$13.4 million during the three months ended June 30, 2021 and 2020, respectively, and \$29.0 million and \$29.8 million during the six months ended June 30, 2021 and 2020, respectively.

## 3. Consolidated Variable Interest Entity

In 2019, we and The Bromley Companies formed a joint venture (the “Midtown One joint venture”) to construct Midtown West, a 150,000 square foot, multi-customer office building located in the mixed-use Midtown Tampa project in Tampa’s Westshore submarket. Midtown West has an anticipated total investment of \$71.3 million. Construction of Midtown West began in the third quarter of 2019 with a completion date in the second quarter of 2021. At closing, we agreed to contribute cash of \$20.0 million, which has been fully funded, in exchange for an 80.0% interest in the Midtown One joint venture and The Bromley Companies contributed land valued at \$5.0 million in exchange for the remaining 20.0% interest. We also committed to provide a \$46.3 million interest-only secured construction loan to the Midtown One joint venture that is scheduled to mature on the second anniversary of completion. The loan bears interest at LIBOR plus 250 basis points. As of June 30, 2021, \$23.7 million under the loan has been funded.

We determined that we have a variable interest in the Midtown One joint venture primarily because the entity was designed to pass along interest rate risk, equity price risk and operation risk to us as both a debt and an equity holder and The Bromley Companies as an equity holder. The Midtown One joint venture was further determined to be a variable interest entity as it requires additional subordinated financial support in the form of a loan because the initial equity investment provided by us and The Bromley Companies is not sufficient to finance its planned investments and operations. We, as majority owner and managing member and through our control rights as set forth in the joint venture’s governance documents, were determined to be the primary beneficiary as we have both the power to direct the activities that most significantly affect the entity (primarily lease rates, property operations and capital expenditures) and significant economic exposure through our equity investment and loan commitment. As such, the Midtown One joint venture is consolidated and all intercompany transactions and accounts are eliminated. The following table sets forth the assets and liabilities of the Midtown One joint venture included on our Consolidated Balance Sheets:

	<b>June 30, 2021</b>
Net real estate assets	\$ 51,
Cash and cash equivalents	\$
Deferred leasing costs	\$
Prepaid expenses and other assets, net of accumulated depreciation	\$
Accounts payable, accrued expenses and other liabilities	\$ 1,

The assets of the Midtown One joint venture can be used only to settle obligations of the joint venture and its creditors have no recourse to our wholly owned assets.

#### 4. Real Estate Assets

##### Acquisitions

During the second quarter of 2021, we acquired development land in Nashville for a purchase price, including capitalized acquisition costs, of \$16.1 million, which is expected to be paid within two years.

During the first quarter of 2021, we acquired our joint venture partner's 75.0% interest in our Highwoods DLF Forum, LLC joint venture (the "Forum"), which owned five buildings in Raleigh encompassing 636,000 rentable square feet, for a purchase price of \$131.3 million. We previously accounted for our 25.0% interest in this joint venture using the equity method of accounting. The assets and liabilities of the joint venture are now wholly owned and we have determined the acquisition constitutes an asset purchase. As such, because the Forum is not a variable interest entity, we allocated our previously held equity interest at historical cost along with the consideration paid and acquisition costs to the assets acquired and liabilities assumed. The assets acquired and liabilities assumed were recorded at relative fair value as determined by management, with the assistance of third party specialists, based on information available at the acquisition date and on current assumptions as to future operations.

##### Dispositions

During the second quarter of 2021, we sold a building in Tampa for a sale price of \$43.0 million (before closing credits to buyer of \$0.9 million) and recorded a gain on disposition of property of \$22.9 million.

During the first quarter of 2021, we sold a building in Atlanta for a sale price of \$30.7 million and recorded a gain on disposition of property of \$18.9 million.

#### 5. Intangible Assets and Below Market Lease Liabilities

The following table sets forth total intangible assets and acquisition-related below market lease liabilities, net of accumulated amortization:

	June 30, 2021	December 31, 2020
<b>Assets:</b>		
Deferred leasing costs (including lease incentives and above market lease and in-place lease acquisition-related intangible assets)	\$ 356,575	\$ 361,027
Less accumulated amortization	(140,257)	(151,698)
	<u>\$ 216,318</u>	<u>\$ 209,329</u>
<b>Liabilities (in accounts payable, accrued expenses and other liabilities):</b>		
Acquisition-related below market lease liabilities	\$ 55,581	\$ 63,748
Less accumulated amortization	(31,159)	(37,838)
	<u>\$ 24,422</u>	<u>\$ 25,910</u>

The following table sets forth amortization of intangible assets and below market lease liabilities:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Amortization of deferred leasing costs and acquisition-related intangible assets (in depreciation and amortization)	\$ 8,626	\$ 8,566	\$ 17,197	\$ 17,364
Amortization of lease incentives (in rental and other revenues)	\$ 445	\$ 429	\$ 893	\$ 919
Amortization of acquisition-related intangible assets (in rental and other revenues)	\$ 241	\$ 321	\$ 518	\$ 609
Amortization of acquisition-related intangible assets (in rental property and other expenses)	\$ —	\$ 138	\$ —	\$ 277
Amortization of acquisition-related below market lease liabilities (in rental and other revenues)	\$ (1,421)	\$ (1,517)	\$ (2,850)	\$ (3,083)

The following table sets forth scheduled future amortization of intangible assets and below market lease liabilities:

	<b>Amortization of Deferred Leasing Costs and Acquisition- Related Intangible Assets (in Depreciation and Amortization)</b>	<b>Amortization of Lease Incentives (in Rental and Other Revenues)</b>	<b>Amortization of Acquisition- Related Intangible Assets (in Rental and Other Revenues)</b>	<b>Amortization of Acquisition- Related Below Market Lease Liabilities (in Rental and Other Revenues)</b>
July 1 through December 31, 2021	\$ 18,331	\$ 791	\$ 484	\$ (2,336)
2022	33,657	1,493	910	(4,214)
2023	29,975	1,421	754	(3,838)
2024	26,604	1,273	664	(3,171)
2025	21,634	1,195	546	(1,813)
Thereafter	69,158	4,975	2,453	(9,050)
	<u>\$ 199,359</u>	<u>\$ 11,148</u>	<u>\$ 5,811</u>	<u>\$ (24,422)</u>
Weighted average remaining amortization periods as of June 30, 2021 (in years)	<u>8.0</u>	<u>9.2</u>	<u>8.8</u>	<u>8.4</u>

The following table sets forth the intangible assets acquired and below market lease liabilities assumed as a result of 2021 acquisition activity:

	<b>Acquisition- Related Intangible Assets (amortized in Rental and Other Revenues)</b>	<b>Acquisition- Related Intangible Assets (amortized in Depreciation and Amortization)</b>	<b>Acquisition- Related Below Market Lease Liabilities (amortized in Rental and Other Revenues)</b>
Amount recorded at acquisition	\$ 2,036	\$ 13,168	\$ (1,361)
Weighted average remaining amortization periods as of June 30, 2021 (in years)	<u>7.2</u>	<u>5.8</u>	<u>5.7</u>

## 6. Mortgages and Notes Payable

The following table sets forth our mortgages and notes payable:

	June 30, 2021	December 31, 2020
Secured indebtedness	\$ 92,345	\$ 93,350
Unsecured indebtedness	2,396,466	2,390,652
Less-unamortized debt issuance costs	(12,909)	(13,981)
<b>Total mortgages and notes payable, net</b>	<b>\$ 2,475,902</b>	<b>\$ 2,470,021</b>

At June 30, 2021, our secured mortgage loan was collateralized by real estate assets with an undepreciated book value of \$147.9 million.

During the first quarter of 2021, we entered into a new \$750.0 million unsecured revolving credit facility, which replaced our previously existing \$600.0 million revolving credit facility and includes an accordion feature that allows for an additional \$550.0 million of borrowing capacity subject to additional lender commitments. Our new revolving credit facility is scheduled to mature in March 2025. Assuming no defaults have occurred, we have an option to extend the maturity for two additional six-month periods. The current interest rate on the new facility at our existing credit ratings is LIBOR plus 90 basis points and the annual facility fee is 20 basis points. The interest rate and facility fee are based on the higher of the publicly announced ratings from Moody's Investors Service or Standard & Poor's Ratings Services. The financial and other covenants under the new facility are substantially similar to our previous credit facility. We incurred \$4.8 million of debt issuance costs, which will be amortized along with certain existing unamortized debt issuance costs over the remaining term of our new revolving credit facility. We recorded \$0.1 million of loss on debt extinguishment. There was \$155.0 million outstanding under our new revolving credit facility at both June 30, 2021 and July 20, 2021. At both June 30, 2021 and July 20, 2021, we had \$0.1 million of outstanding letters of credit, which reduces the availability on our revolving credit facility. As a result, the unused capacity of our revolving credit facility at both June 30, 2021 and July 20, 2021 was \$594.9 million.

During the second quarter of 2021, we prepaid without penalty the remaining \$150.0 million principal amount of 3.20% unsecured notes that was scheduled to mature in June 2021. We recorded \$0.1 million of loss on debt extinguishment related to this prepayment.

We are currently in compliance with financial covenants with respect to our consolidated debt.

We have considered our short-term liquidity needs and the adequacy of our estimated cash flows from operating activities and other available financing sources to meet these needs. We intend to meet these short-term liquidity requirements through a combination of the following:

- available cash and cash equivalents;
- cash flows from operating activities;
- issuance of debt securities by the Operating Partnership;
- issuance of secured debt;
- bank term loans;
- borrowings under our revolving credit facility;
- issuance of equity securities by the Company or the Operating Partnership; and
- the disposition of non-core assets.

## 7. Derivative Financial Instruments

The counterparties under our swaps are major financial institutions. The swap agreements contain a provision whereby if we default on certain of our indebtedness and which default results in repayment of such indebtedness being, or becoming capable of being, accelerated by the lender, then we could also be declared in default on our swaps.

Our interest rate swaps have been designated as and are being accounted for as cash flow hedges with changes in fair value recorded in other comprehensive income/(loss) each reporting period. We have no collateral requirements related to our interest rate swaps.

Amounts reported in accumulated other comprehensive income/(loss) related to derivatives will be reclassified to interest expense as interest payments are made on our debt. During the period from July 1, 2021 through June 30, 2022, we estimate that \$0.2 million will be reclassified as a net increase to interest expense.

The following table sets forth the fair value of our derivatives:

	<u>June 30, 2021</u>	<u>December 31, 2020</u>
<b>Derivatives:</b>		
<b>Derivatives designated as cash flow hedges in accounts payable, accrued expenses and other liabilities:</b>		
Interest rate swaps	\$ 461	\$ 8

The following table sets forth the effect of our cash flow hedges on accumulated other comprehensive loss and interest expense:

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2021</u>	<u>2020</u>	<u>2021</u>	<u>2020</u>
<b>Derivatives Designated as Cash Flow Hedges:</b>				
<b>Amount of unrealized losses recognized in accumulated other comprehensive loss on derivatives:</b>				
Interest rate swaps	\$ (11)	\$ (103)	\$ (11)	\$ (1,236)
<b>Amount of losses reclassified out of accumulated other comprehensive loss into interest expense:</b>				
Interest rate swaps	\$ 126	\$ 75	\$ 248	\$ 3



## 8. Noncontrolling Interests

### Noncontrolling Interests in Consolidated Affiliates

At June 30, 2021, our noncontrolling interests in consolidated affiliates relate to our joint venture partners' 50.0% interest in office properties in Richmond and 20.0% interest in the Midtown One joint venture. See Note 3. Our joint venture partners are unrelated third parties.

### Noncontrolling Interests in the Operating Partnership

The following table sets forth the Company's noncontrolling interests in the Operating Partnership:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Beginning noncontrolling interests in the Operating Partnership	\$ 121,895	\$ 100,674	\$ 112,499	\$ 133,216
Adjustment of noncontrolling interests in the Operating Partnership to fair value	6,068	5,776	15,334	(36,525)
Issuances of Common Units	—	—	—	6,163
Conversions of Common Units to Common Stock	(44)	—	(44)	—
Net income attributable to noncontrolling interests in the Operating Partnership	1,624	1,017	3,117	5,977
Distributions to noncontrolling interests in the Operating Partnership	(1,363)	(1,364)	(2,726)	(2,728)
Total noncontrolling interests in the Operating Partnership	\$ 128,180	\$ 106,103	\$ 128,180	\$ 106,103

The following table sets forth net income available for common stockholders and transfers from the Company's noncontrolling interests in the Operating Partnership:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Net income available for common stockholders	\$ 59,305	\$ 37,028	\$ 113,764	\$ 222,501
Increase in additional paid in capital from conversions of Common Units to Common Stock	44	—	44	—
Issuances of Common Units	—	—	—	(6,163)
Change from net income available for common stockholders and transfers from noncontrolling interests	\$ 59,349	\$ 37,028	\$ 113,808	\$ 216,338

## 9. Disclosure About Fair Value of Financial Instruments

The following summarizes the levels of inputs that we use to measure fair value.

**Level 1.** Quoted prices in active markets for identical assets or liabilities.

Our Level 1 asset is our investment in marketable securities that we use to pay benefits under our non-qualified deferred compensation plan. Our Level 1 liability is our non-qualified deferred compensation obligation. The Company's Level 1 noncontrolling interests in the Operating Partnership relate to the ownership of Common Units by various individuals and entities other than the Company.

**Level 2.** Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets that are not active or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the related assets or liabilities.

Our Level 2 assets include the fair value of our mortgages and notes receivable. Our Level 2 liabilities include the fair value of our mortgages and notes payable and interest rate swaps.

The fair value of mortgages and notes receivable and mortgages and notes payable is estimated by the income approach utilizing contractual cash flows and market-based interest rates to approximate the price that would be paid in an orderly transaction between market participants. The fair value of interest rate swaps is determined using the market standard methodology of netting the discounted future fixed cash receipts and the discounted expected variable cash payments. The variable cash payments of interest rate swaps are based on the expectation of future interest rates (forward curves) derived from observed market interest rate curves. In addition, credit valuation adjustments are considered in the fair values to account for potential nonperformance risk, but were concluded to not be significant inputs to the calculation for the periods presented.

**Level 3.** Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Our Level 3 assets include any real estate assets recorded at fair value on a non-recurring basis as a result of our quarterly impairment analysis, which are valued using unobservable local and national industry market data such as comparable sales, appraisals, brokers' opinions of value and/or the terms of definitive sales contracts. Significant increases or decreases in any valuation inputs in isolation would result in a significantly lower or higher fair value measurement.

The following table sets forth our assets and liabilities and the Company's noncontrolling interests in the Operating Partnership that are measured or disclosed at fair value within the fair value hierarchy:

	Total	Level 1 Quoted Prices in Active Markets for Identical Assets or Liabilities	Level 2 Significant Observable Inputs
<b>Fair Value at June 30, 2021:</b>			
<b>Assets:</b>			
Mortgages and notes receivable, at fair value (1)	\$ 1,264	\$ —	\$ 1,264
Marketable securities of non-qualified deferred compensation plan (in prepaid expenses and other assets)	2,829	2,829	—
<b>Total Assets</b>	<b>\$ 4,093</b>	<b>\$ 2,829</b>	<b>\$ 1,264</b>
<b>Noncontrolling Interests in the Operating Partnership</b>	<b>\$ 128,180</b>	<b>\$ 128,180</b>	<b>\$ —</b>
<b>Liabilities:</b>			
Mortgages and notes payable, net, at fair value (1)	\$ 2,619,464	\$ —	\$ 2,619,464
Interest rate swaps (in accounts payable, accrued expenses and other liabilities)	461	—	461
Non-qualified deferred compensation obligation (in accounts payable, accrued expenses and other liabilities)	2,829	2,829	—
<b>Total Liabilities</b>	<b>\$ 2,622,754</b>	<b>\$ 2,829</b>	<b>\$ 2,619,925</b>
<b>Fair Value at December 31, 2020:</b>			
<b>Assets:</b>			
Mortgages and notes receivable, at fair value (1)	\$ 1,341	\$ —	\$ 1,341
Marketable securities of non-qualified deferred compensation plan (in prepaid expenses and other assets)	2,573	2,573	—
<b>Total Assets</b>	<b>\$ 3,914</b>	<b>\$ 2,573</b>	<b>\$ 1,341</b>
<b>Noncontrolling Interests in the Operating Partnership</b>	<b>\$ 112,499</b>	<b>\$ 112,499</b>	<b>\$ —</b>
<b>Liabilities:</b>			
Mortgages and notes payable, net, at fair value (1)	\$ 2,639,163	\$ —	\$ 2,639,163
Interest rate swaps (in accounts payable, accrued expenses and other liabilities)	846	—	846
Non-qualified deferred compensation obligation (in accounts payable, accrued expenses and other liabilities)	2,573	2,573	—
<b>Total Liabilities</b>	<b>\$ 2,642,582</b>	<b>\$ 2,573</b>	<b>\$ 2,640,009</b>

(1) Amounts are not recorded at fair value on our Consolidated Balance Sheets at June 30, 2021 and December 31, 2020.

## 10. Share-Based Payments

During the six months ended June 30, 2021, the Company granted 103,120 shares of time-based restricted stock and 81,464 shares of total return-based restricted stock with weighted average grant date fair values per share of \$39.99 and \$36.41, respectively. We recorded share-based compensation expense of \$1.9 million and \$1.2 million during the three months ended June 30, 2021 and 2020, respectively, and \$4.9 million and \$3.7 million during the six months ended June 30, 2021 and 2020, respectively. At June 30, 2021, there was \$7.2 million of total unrecognized share-based compensation costs, which will be recognized over a weighted average remaining contractual term of 2.0 years.

## 11. Accumulated Other Comprehensive Loss

The following table sets forth the components of accumulated other comprehensive loss:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Cash flow hedges:</b>				
Beginning balance	\$ (1,340)	\$ (1,676)	\$ (1,462)	\$ (471)
Unrealized losses on cash flow hedges	(11)	(103)	(11)	(1,236)
Amortization of cash flow hedges (1)	126	75	248	3
<b>Total accumulated other comprehensive loss</b>	<b>\$ (1,225)</b>	<b>\$ (1,704)</b>	<b>\$ (1,225)</b>	<b>\$ (1,704)</b>

(1) Amounts reclassified out of accumulated other comprehensive loss into interest expense.

## 12. Real Estate and Other Assets Held For Sale

The following table sets forth the assets held for sale at June 30, 2021 and December 31, 2020, which are considered non-core:

	June 30, 2021	December 31, 2020
<b>Assets:</b>		
Land	\$ —	\$ 2,612
Buildings and tenant improvements	—	12,238
Less-accumulated depreciation	—	(3,577)
Net real estate assets	—	11,273
Deferred leasing costs, net	—	87
<b>Real estate and other assets, net, held for sale</b>	<b>\$ —</b>	<b>\$ 11,360</b>

### 13. Earnings Per Share and Per Unit

The following table sets forth the computation of basic and diluted earnings per share of the Company:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Earnings per Common Share - basic:</b>				
<b>Numerator:</b>				
Net income	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Net (income) attributable to noncontrolling interests in the Operating Partnership	(1,624)	(1,017)	(3,117)	(5,977)
Net (income) attributable to noncontrolling interests in consolidated affiliates	(294)	(289)	(575)	(574)
Dividends on Preferred Stock	(621)	(622)	(1,243)	(1,244)
Net income available for common stockholders	<u>\$ 59,305</u>	<u>\$ 37,028</u>	<u>\$ 113,764</u>	<u>\$ 222,501</u>
<b>Denominator:</b>				
Denominator for basic earnings per Common Share – weighted average shares (1)	104,106	103,886	104,035	103,849
Net income available for common stockholders	<u>\$ 0.57</u>	<u>\$ 0.36</u>	<u>\$ 1.09</u>	<u>\$ 2.14</u>
<b>Earnings per Common Share - diluted:</b>				
<b>Numerator:</b>				
Net income	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Net (income) attributable to noncontrolling interests in consolidated affiliates	(294)	(289)	(575)	(574)
Dividends on Preferred Stock	(621)	(622)	(1,243)	(1,244)
Net income available for common stockholders before net (income) attributable to noncontrolling interests in the Operating Partnership	<u>\$ 60,929</u>	<u>\$ 38,045</u>	<u>\$ 116,881</u>	<u>\$ 228,478</u>
<b>Denominator:</b>				
Denominator for basic earnings per Common Share – weighted average shares (1)	104,106	103,886	104,035	103,849
Add:				
Stock options using the treasury method	20	2	14	13
Noncontrolling interests Common Units	2,838	2,842	2,838	2,819
Denominator for diluted earnings per Common Share – adjusted weighted average shares and assumed conversions	<u>106,964</u>	<u>106,730</u>	<u>106,887</u>	<u>106,681</u>
Net income available for common stockholders	<u>\$ 0.57</u>	<u>\$ 0.36</u>	<u>\$ 1.09</u>	<u>\$ 2.14</u>

(1) Includes all unvested restricted stock where dividends on such restricted stock are non-forfeitable.

The following table sets forth the computation of basic and diluted earnings per unit of the Operating Partnership:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Earnings per Common Unit - basic:</b>				
<b>Numerator:</b>				
Net income	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Net (income) attributable to noncontrolling interests in consolidated affiliates	(294)	(289)	(575)	(574)
Distributions on Preferred Units	(621)	(622)	(1,243)	(1,244)
Net income available for common unitholders	<u>\$ 60,929</u>	<u>\$ 38,045</u>	<u>\$ 116,881</u>	<u>\$ 228,478</u>
<b>Denominator:</b>				
Denominator for basic earnings per Common Unit – weighted average units (1)	<u>106,535</u>	<u>106,319</u>	<u>106,464</u>	<u>106,259</u>
Net income available for common unitholders	<u>\$ 0.57</u>	<u>\$ 0.36</u>	<u>\$ 1.10</u>	<u>\$ 2.15</u>
<b>Earnings per Common Unit - diluted:</b>				
<b>Numerator:</b>				
Net income	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Net (income) attributable to noncontrolling interests in consolidated affiliates	(294)	(289)	(575)	(574)
Distributions on Preferred Units	(621)	(622)	(1,243)	(1,244)
Net income available for common unitholders	<u>\$ 60,929</u>	<u>\$ 38,045</u>	<u>\$ 116,881</u>	<u>\$ 228,478</u>
<b>Denominator:</b>				
Denominator for basic earnings per Common Unit – weighted average units (1)	106,535	106,319	106,464	106,259
Add:				
Stock options using the treasury method	20	2	14	13
Denominator for diluted earnings per Common Unit – adjusted weighted average units and assumed conversions	<u>106,555</u>	<u>106,321</u>	<u>106,478</u>	<u>106,272</u>
Net income available for common unitholders	<u>\$ 0.57</u>	<u>\$ 0.36</u>	<u>\$ 1.10</u>	<u>\$ 2.15</u>

(1) Includes all unvested restricted stock where distributions on such restricted stock are non-forfeitable.

#### 14. Segment Information

The following tables summarize the rental and other revenues and net operating income, the primary industry property-level performance metric used by our chief operating decision maker and which is defined as rental and other revenues less rental property and other expenses, for each of our reportable segments.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Rental and Other Revenues:</b>				
Office:				
Atlanta	\$ 35,738	\$ 36,537	\$ 71,713	\$ 74,496
Charlotte	8,917	9,010	18,051	17,943
Nashville	35,578	34,622	70,737	69,119
Orlando	12,730	12,304	25,289	25,326
Pittsburgh	13,949	14,676	28,567	29,624
Raleigh	37,655	31,202	74,697	63,755
Richmond	11,751	11,834	23,213	24,094
Tampa	25,886	25,358	50,310	50,602
Total Office Segment	182,204	175,543	362,577	354,959
Other	3,298	7,610	6,730	20,994
Total Rental and Other Revenues	\$ 185,502	\$ 183,153	\$ 369,307	\$ 375,953
<b>Net Operating Income:</b>				
Office:				
Atlanta	\$ 23,622	\$ 23,901	\$ 47,622	\$ 49,084
Charlotte	7,035	7,123	14,287	14,325
Nashville	25,824	25,132	50,817	49,885
Orlando	7,782	7,750	15,494	15,755
Pittsburgh	8,411	9,350	17,300	18,020
Raleigh	28,444	23,997	56,580	47,633
Richmond	8,234	8,508	16,287	17,199
Tampa	17,857	17,663	34,497	34,196
Total Office Segment	127,209	123,424	252,884	246,097
Other	2,067	4,610	4,008	12,535
Total Net Operating Income	129,276	128,034	256,892	258,632
<b>Reconciliation to net income:</b>				
Depreciation and amortization	(61,949)	(59,461)	(122,876)	(120,611)
Impairments of real estate assets	—	(1,778)	—	(1,778)
General and administrative expenses	(10,107)	(10,084)	(20,059)	(21,014)
Interest expense	(19,001)	(19,840)	(38,769)	(41,117)
Other income	332	588	644	657
Gains on disposition of property	22,862	318	41,799	153,385
Equity in earnings of unconsolidated affiliates	431	1,179	1,068	2,142
<b>Net income</b>	<b>\$ 61,844</b>	<b>\$ 38,956</b>	<b>\$ 118,699</b>	<b>\$ 230,296</b>

**15. Contingencies**

Since early March 2020, efforts to slow the spread of the COVID-19 virus have had a significant impact on the U.S. economy. We continue to follow the policies described in Notes 1 and 2 to our Consolidated Financial Statements contained in our 2020 Annual Report on Form 10-K, including those related to impairments of real estate assets and investments in unconsolidated affiliates, leases and estimates of credit losses on operating lease receivables. While the results of our current analyses did not result in any material adjustments to amounts as of and during the three and six months ended June 30, 2021, circumstances related to the COVID-19 pandemic may result in recording impairments, lease modifications and credit losses in future periods.

**16. Subsequent Events**

On July 27, 2021, the Company declared a cash dividend of \$0.50 per share of Common Stock, which is payable on September 8, 2021 to stockholders of record as of August 16, 2021.



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

The Company is a fully integrated office real estate investment trust ("REIT") that owns, develops, acquires, leases and manages properties primarily in the best business districts (BBDs) of Atlanta, Charlotte, Nashville, Orlando, Pittsburgh, Raleigh, Richmond and Tampa. The Company conducts its activities through the Operating Partnership. The Operating Partnership is managed by the Company, its sole general partner. Additional information about us can be found on our website at [www.highwoods.com](http://www.highwoods.com). Information on our website is not part of this Quarterly Report.

You should read the following discussion and analysis in conjunction with the accompanying Consolidated Financial Statements and related notes contained elsewhere in this Quarterly Report.

### Disclosure Regarding Forward-Looking Statements

Some of the information in this Quarterly Report may contain forward-looking statements. Such statements include, in particular, statements about our plans, strategies and prospects under this section. You can identify forward-looking statements by our use of forward-looking terminology such as "may," "will," "expect," "anticipate," "estimate," "continue" or other similar words. Although we believe that our plans, intentions and expectations reflected in or suggested by such forward-looking statements are reasonable, we cannot assure you that our plans, intentions or expectations will be achieved. When considering such forward-looking statements, you should keep in mind important factors that could cause our actual results to differ materially from those contained in any forward-looking statement, including the following:

- the closing of the planned acquisition of a portfolio of office assets from Preferred Apartment Communities, Inc. ("PAC") may not occur on the terms described in this report or at all;
- buyers may not be available and pricing may not be adequate with respect to planned dispositions of non-core assets;
- comparable sales data on which we based our expectations with respect to the sales price of non-core assets may not reflect current market trends;
- the extent to which the ongoing COVID-19 pandemic impacts our financial condition, results of operations and cash flows depends on future developments, which are highly uncertain and cannot be predicted with confidence, including the scope, severity and duration of the pandemic and its impact on the U.S. economy and potential changes in customer behavior that could adversely affect the use of and demand for office space;
- the financial condition of our customers could deteriorate or further worsen, which could be further exacerbated by the COVID-19 pandemic;
- our assumptions regarding potential losses related to customer financial difficulties due to the COVID-19 pandemic could prove incorrect;
- counterparties under our debt instruments, particularly our revolving credit facility, may attempt to avoid their obligations thereunder, which, if successful, would reduce our available liquidity;
- we may not be able to lease or re-lease second generation space, defined as previously occupied space that becomes available for lease, quickly or on as favorable terms as old leases;
- we may not be able to lease newly constructed buildings as quickly or on as favorable terms as originally anticipated;
- we may not be able to complete development, acquisition, reinvestment, disposition or joint venture projects as quickly or on as favorable terms as anticipated;
- development activity in our existing markets could result in an excessive supply relative to customer demand;
- our markets may suffer declines in economic and/or office employment growth;
- unanticipated increases in interest rates could increase our debt service costs;
- unanticipated increases in operating expenses could negatively impact our operating results;

- natural disasters and climate change could have an adverse impact on our cash flow and operating results;
- we may not be able to meet our liquidity requirements or obtain capital on favorable terms to fund our working capital needs and growth initiatives or repay or refinance outstanding debt upon maturity; and
- the Company could lose key executive officers.

This list of risks and uncertainties, however, is not intended to be exhaustive. You should also review the other cautionary statements we make in “Item 1A. Risk Factors” set forth in our 2020 Annual Report on Form 10-K. Given these uncertainties, you should not place undue reliance on forward-looking statements. We undertake no obligation to publicly release the results of any revisions to these forward-looking statements to reflect any future events or circumstances or to reflect the occurrence of unanticipated events.

## Executive Summary

Highwoods is in the work-placemaking business. We believe that in creating environments and experiences where the best and brightest can achieve together what they cannot apart, Highwoods delivers greater value to our customers, their teammates and, in turn, our stockholders. Our simple strategy is to own and manage high-quality workplaces in the BBDs within our footprint, maintain a strong balance sheet to be opportunistic throughout economic cycles, employ a talented and dedicated team and communicate transparently with all stakeholders. We focus on owning and managing buildings in the most dynamic and vibrant BBDs. BBDs are highly-energized and amenitized workplace locations that enhance our customers’ ability to attract and retain talent. They are both urban and suburban. Providing the most talent-supportive workplace options in these environments is core to the Highwoods work-placemaking strategy.

## COVID-19

The COVID-19 pandemic has obviously had a significant impact on the U.S. economy since March 2020. It is very difficult to predict when, if and to what extent economic activity will return to pre-COVID-19 levels. The COVID-19 pandemic did have somewhat of an impact on our second quarter of 2021 financial results. Our financial results for the remainder of 2021 and future leasing activity could be adversely affected by the COVID-19 pandemic. Factors that could cause actual results to differ materially from our current expectations are set forth under “Disclosure Regarding Forward-Looking Statements.”

While all buildings and parking facilities have remained open for business, the usage of our assets has continued to remain significantly lower than pre-pandemic levels. As a result, compared to pre-pandemic levels, parking and parking-related revenues have continued to be low, largely offsetting reduced operating expenses, net of expense recoveries. Until usage increases, which will depend on the duration of the COVID-19 pandemic, which is difficult to estimate, we expect that reduced usage will continue to result in reduced parking revenues, which will be partially offset by reduced operating expenses. We expect usage will gradually increase throughout the remainder of 2021 as an increasing number of employers believe the risk of virus spread in the workplace is manageable.

## Revenues

Our operating results depend heavily on successfully leasing and operating the office space in our portfolio. Economic growth and office employment levels in our core markets are important factors, among others, in predicting our future operating results.

The key components affecting our rental and other revenues are average occupancy, rental rates, cost recovery income, new developments placed in service, acquisitions and dispositions. Average occupancy generally increases during times of improving economic growth, as our ability to lease space outpaces vacancies that occur upon the expirations of existing leases. Average occupancy generally declines during times of slower or negative economic growth, when new vacancies tend to outpace our ability to lease space. Asset acquisitions, dispositions and new developments placed in service directly impact our rental revenues and could impact our average occupancy, depending upon the occupancy rate of the properties that are acquired, sold or placed in service. A further indicator of the predictability of future revenues is the expected lease expirations of our portfolio. As a result, in addition to seeking to increase our average occupancy by leasing current vacant space, we also concentrate our leasing efforts on renewing existing leases prior to expiration. For more information regarding our lease expirations, see “Properties - Lease Expirations” in our 2020 Annual Report on Form 10-K. Occupancy in our office portfolio decreased from 90.3% at December 31, 2020 to 89.5% at June 30, 2021. We expect average occupancy for our office portfolio to be approximately 89% to 90% for the remainder of 2021. However, average occupancy in the remainder of 2021 will be lower, perhaps significantly lower, if the COVID-19 pandemic causes vacancies and move-outs due to customers that default

on their leases, file bankruptcy or otherwise experience significant financial difficulty. Potential changes in customer behavior, such as the continued social acceptance, desirability and perceived economic benefits of work-from-home arrangements, could materially and negatively impact the future demand for office space, resulting in slower overall leasing and negatively impacting our revenues.

Whether or not our rental revenue tracks average occupancy proportionally depends upon whether GAAP rents under signed new and renewal leases are higher or lower than the GAAP rents under expiring leases. Annualized rental revenues from second generation leases expiring during any particular year are typically less than 15% of our total annual rental revenues. The following table sets forth information regarding second generation office leases signed during the second quarter of 2021 (we define second generation office leases as leases with new customers and renewals of existing customers in office space that has been previously occupied under our ownership and leases with respect to vacant space in acquired buildings):

	New	Renewal	All Office
Leased space (in rentable square feet)	323,022	575,538	898,560
Average term (in years - rentable square foot weighted)	6.6	4.9	5.5
Base rents (per rentable square foot) (1)	\$ 31.16	\$ 31.13	\$ 31.14
Rent concessions (per rentable square foot) (1)	(2.13)	(1.15)	(1.50)
GAAP rents (per rentable square foot) (1)	\$ 29.03	\$ 29.98	\$ 29.64
Tenant improvements (per rentable square foot) (1)	\$ 5.37	\$ 2.70	\$ 3.66
Leasing commissions (per rentable square foot) (1)	\$ 1.16	\$ 0.80	\$ 0.93

(1) Weighted average per rentable square foot on an annual basis over the lease term.

Annual combined GAAP rents for new and renewal leases signed in the second quarter were \$29.64 per rentable square foot, 8.9% higher compared to previous leases in the same office spaces.

We strive to maintain a diverse, stable and creditworthy customer base. We have an internal guideline whereby customers that account for more than 3% of our annualized revenues are periodically reviewed with the Company's Board of Directors. As of June 30, 2021, the Federal Government (4.1%), Bank of America (3.9%) and Metropolitan Life Insurance (3.0%) accounted for more than 3% of our annualized cash revenues.

## Expenses

Our expenses primarily consist of rental property expenses, depreciation and amortization, general and administrative expenses and interest expense. From time to time, expenses also include impairments of real estate assets. Rental property expenses are expenses associated with our ownership and operation of rental properties and include expenses that vary somewhat proportionately to occupancy levels, such as janitorial services and utilities, and expenses that do not vary based on occupancy, such as property taxes and insurance. Depreciation and amortization is a non-cash expense associated with the ownership of real property and generally remains relatively consistent each year, unless we buy, place in service or sell assets, since our properties and related building and tenant improvement assets are depreciated on a straight-line basis over fixed lives. General and administrative expenses consist primarily of management and employee salaries and benefits, corporate overhead and short and long-term incentive compensation.

## Net Operating Income

Whether or not we record increasing net operating income ("NOI") in our same property portfolio typically depends upon our ability to garner higher rental revenues, whether from higher average occupancy, higher GAAP rents per rentable square foot or higher cost recovery income, that exceed any corresponding growth in operating expenses. Same property NOI was \$0.2 million, or 0.2%, lower in the second quarter of 2021 as compared to 2020 due to an increase of \$1.4 million in same property expenses offset by an increase of \$1.2 million in same property revenues. We expect same property NOI to be lower for the remainder of 2021 as compared to 2020 as an anticipated increase in same property expenses, mostly from the gradual increase in usage of our assets, is expected to more than offset higher anticipated same property revenues. We expect same property revenues to be higher due to higher average GAAP rents per rentable square foot and higher cost recovery and parking income, partly offset by an anticipated decrease in average occupancy. Same property NOI could be further negatively impacted if the COVID-19 pandemic causes losses related to customer difficulties.

In addition to the effect of same property NOI, whether or not NOI increases typically depends upon whether the NOI from our acquired properties and development properties placed in service exceeds the NOI from property dispositions. NOI was \$1.2 million, or 1.0%, higher in the second quarter of 2021 as compared to 2020 primarily due to the acquisition of our joint venture partner's 75.0% interest in our Highwoods DLF Forum, LLC joint venture (the "Forum") and development properties placed in service, partly offset by NOI lost from property dispositions and lower same property NOI. We expect NOI to be higher for the remainder of 2021 as compared to 2020 for similar reasons. Similar to same property NOI, NOI could be negatively impacted if the COVID-19 pandemic causes losses related to customer difficulties.

## **Cash Flows**

In calculating net cash related to operating activities, depreciation and amortization, which are non-cash expenses, are added back to net income. We have historically generated a positive amount of cash from operating activities. From period to period, cash flow from operations depends primarily upon changes in our net income, as discussed more fully below under "Results of Operations," changes in receivables and payables and net additions or decreases in our overall portfolio.

Net cash related to investing activities generally relates to capitalized costs incurred for leasing and major building improvements and our acquisition, development, disposition and joint venture activity. During periods of significant net acquisition and/or development activity, our cash used in such investing activities will generally exceed cash provided by investing activities, which typically consists of cash received upon the sale of properties and distributions from our joint ventures.

Net cash related to financing activities generally relates to distributions, incurrence and repayment of debt, and issuances, repurchases or redemptions of Common Stock, Common Units and Preferred Stock. We use a significant amount of our cash to fund distributions. Whether or not we have increases in the outstanding balances of debt during a period depends generally upon the net effect of our acquisition, disposition, development and joint venture activity. We generally use our revolving credit facility for daily working capital purposes, which means that during any given period, in order to minimize interest expense, we may record significant repayments and borrowings under our revolving credit facility.

For a discussion regarding dividends and distributions, see "Liquidity and Capital Resources - Dividends and Distributions."

## **Liquidity and Capital Resources**

We continue to maintain a conservative and flexible balance sheet and believe we have ample liquidity to fund our operations and growth prospects. As of July 20, 2021, we had \$155.0 million drawn on our \$750.0 million revolving credit facility, which is scheduled to mature in March 2025. Assuming we are in compliance with our covenants, we have an option to extend the maturity for two additional six-month periods. At June 30, 2021, our leverage ratio, as measured by the ratio of our mortgages and notes payable and outstanding preferred stock to the undepreciated book value of our assets, was 37.3% and there were 107.1 million diluted shares of Common Stock outstanding.

Rental and other revenues are our principal source of funds to meet our short-term liquidity requirements. Other sources of funds for short-term liquidity needs include available working capital and borrowings under our revolving credit facility. Our short-term liquidity requirements primarily consist of operating expenses, interest and principal amortization on our debt, distributions and capital expenditures, including building improvement costs, tenant improvement costs and lease commissions. Building improvements are capital costs to maintain or enhance existing buildings not typically related to a specific customer. Tenant improvements are the costs required to customize space for the specific needs of customers. We anticipate that our available cash and cash equivalents and cash provided by operating activities and planned financing activities, including borrowings under our revolving credit facility, will be adequate to meet our short-term liquidity requirements. We use our revolving credit facility for working capital purposes and for the short-term funding of our development and acquisition activity and, in certain instances, the repayment of other debt. Continued ability to borrow under our revolving credit facility allows us to quickly capitalize on strategic opportunities at short-term interest rates.

We generally believe existing cash and rental and other revenues will continue to be sufficient to fund short-term liquidity needs such as funding operating and general and administrative expenses, paying interest expense, maintaining our existing quarterly dividend and funding existing portfolio capital expenditures, including building improvement costs, tenant improvement costs and lease commissions.

Our long-term liquidity uses generally consist of the retirement or refinancing of debt upon maturity, funding of building improvements, new building developments and land infrastructure projects and funding acquisitions of buildings and

development land. Our expected future capital expenditures for started and/or committed new development projects were approximately \$51 million at June 30, 2021. Additionally, we may, from time to time, retire outstanding equity and/or debt securities through redemptions, open market repurchases, privately negotiated acquisitions or otherwise.

We expect to meet our long-term liquidity needs through a combination of:

- cash flow from operating activities;
- bank term loans and borrowings under our revolving credit facility;
- the issuance of unsecured debt;
- the issuance of secured debt;
- the issuance of equity securities by the Company or the Operating Partnership; and
- the disposition of non-core assets.

During the remainder of 2021, we have no debt scheduled to mature and we forecast spending an additional \$35 million on our development pipeline. As of June 30, 2021, our \$394 million development pipeline was approximately 85% funded. We generally believe we will be able to satisfy these obligations with existing cash, borrowings under our revolving credit facility, new bank term loans, issuance of other unsecured debt, mortgage debt and/or proceeds from the sale of additional non-core assets.

### **Investment Activity**

A key tenet of our strategic plan is to continuously upgrade the quality of our office portfolio through acquisitions, dispositions and development. We generally seek to acquire and develop office buildings that improve the average quality of our overall portfolio and deliver consistent and sustainable value for our stockholders over the long-term. Whether or not an asset acquisition or new development results in higher per share net income or funds from operations (“FFO”) in any given period depends upon a number of factors, including whether the NOI for any such period exceeds the actual cost of capital used to finance the acquisition or development. Additionally, given the length of construction cycles, development projects are not placed in service until, in some cases, several years after commencement. Sales of non-core assets could result in lower per share net income or FFO in any given period in the event the resulting use of proceeds does not exceed the capitalization rate on the sold properties.

### **Planned Investment Activities**

During the second quarter of 2021, we agreed to acquire a portfolio of office assets from PAC. The acquisition, which is subject to customary closing conditions, is scheduled to close within 30 days of the filing of this Quarterly Report. We plan to fund the initial \$250 million cash portion of the purchase price with a combination of restricted cash currently held in escrow as the result of recent non-core asset sales, borrowings under our current \$750 million unsecured revolving credit facility and an expected \$200 million, six-month unsecured bridge facility from JPMorgan Chase Bank, N.A. Our plan is to ultimately fund the acquisition primarily by accelerating the sale of \$500 to \$600 million of existing non-core assets by mid-2022, approximately half of which is planned to close by year-end 2021. Since our announcement on April 19, 2021 to acquire the portfolio of office assets from PAC, we have sold \$43.0 million of non-core assets. For more information, see “Liquidity and Capital Resources – Investment Activity.”

Because the acquisition and subsequent dispositions are not expected to close until after the filing of this Quarterly Report, if at all, forward-looking statements about our anticipated revenues, expenses and other items for the remainder of the year included below under “Results of Operations” do not include the impacts of any of these planned investment activities.

## Results of Operations

### Three Months Ended June 30, 2021 and 2020

#### *Rental and Other Revenues*

Rental and other revenues were \$2.3 million, or 1.3%, higher in the second quarter of 2021 as compared to 2020 primarily due to the acquisition of our joint venture partner's 75.0% interest in the Forum, development properties placed in service and higher same property revenues, which increased rental and other revenues by \$4.3 million, \$1.6 million and \$1.2 million, respectively. Same property rental and other revenues were higher primarily due to higher average GAAP rents per rentable square foot, higher cost recovery and parking income and lower credit losses, partly offset by a decrease in average occupancy. These increases were partly offset by lost revenue of \$4.9 million from property dispositions. We expect rental and other revenues to be higher for the remainder of 2021 as compared to 2020 due to the acquisition of our joint venture partner's 75.0% interest in the Forum, higher same property revenues and development properties placed in service, partly offset by lost revenue from property dispositions. Rental and other revenues could be negatively impacted if the COVID-19 pandemic causes losses related to customer difficulties.

#### *Operating Expenses*

Rental property and other expenses were \$1.1 million, or 2.0%, higher in the second quarter of 2021 as compared to 2020 primarily due to higher same property operating expenses, the acquisition of our joint venture partner's 75.0% interest in the Forum and development properties placed in service, which increased operating expenses by \$1.4 million, \$1.0 million and \$0.3 million, respectively. Same property operating expenses were higher primarily due to higher property taxes and higher contract services, repairs and maintenance and utilities as a result of increased usage of our assets. These increases were partly offset by a \$1.8 million decrease in operating expenses from property dispositions. We expect rental property and other expenses to be higher for the remainder of 2021 as compared to 2020 due to higher same property operating expenses as a result of increased usage of our assets, the acquisition of our joint venture partner's 75.0% interest in the Forum and development properties placed in service, partly offset by lower operating expenses from property dispositions.

Depreciation and amortization was \$2.5 million, or 4.2%, higher in the second quarter of 2021 as compared to 2020 primarily due to the acquisition of our joint venture partner's 75.0% interest in the Forum, development properties placed in service and higher same property lease related depreciation and amortization, partly offset by fully amortized acquisition-related intangible assets and property dispositions. We expect depreciation and amortization to be higher for the remainder of 2021 as compared to 2020 for similar reasons.

We recorded an impairment of real estate assets of \$1.8 million in the second quarter of 2020, which resulted from a change in market-based inputs and our assumptions about the use of the assets. We recorded no such impairment in 2021.

General and administrative expenses were unchanged in the second quarter of 2021 as compared to 2020 due to lower salaries, severance and early retirement costs offset by higher incentive compensation. We experienced lower salaries in 2021 as a result of the reduction in the number of employees throughout 2020 primarily due to our exiting of the Greensboro and Memphis markets and the subsequent closing of those division offices and the resulting synergies garnered from the ongoing simplification of our business. We expect general and administrative expenses to be relatively consistent for the remainder of 2021 as compared to 2020 for similar reasons.

#### *Interest Expense*

Interest expense was \$0.8 million, or 4.2%, lower in the second quarter of 2021 as compared to 2020 primarily due to lower average interest rates and higher capitalized interest, partly offset by higher average debt balances. We expect interest expense to be lower for the remainder of 2021 as compared to 2020 due to lower average interest rates, partly offset by higher average debt balances and lower capitalized interest.

#### *Other Income*

Other income was \$0.3 million lower in the second quarter of 2021 as compared to 2020 primarily due to lower gains on deferred compensation plan investments (which is fully offset by a corresponding decrease in general and administrative expenses).

### ***Gains on Disposition of Property***

Gains on disposition of property were \$22.5 million higher in the second quarter of 2021 as compared to 2020 due to the net effect of the disposition activity in such periods.

### ***Equity in Earnings of Unconsolidated Affiliates***

Equity in earnings of unconsolidated affiliates was \$0.7 million, or 63.4%, lower in the second quarter of 2021 as compared to 2020 primarily due to the acquisition of our joint venture partner's 75.0% interest in the Forum and lower average occupancy. We expect equity in earnings of unconsolidated affiliates to be lower for the remainder of 2021 as compared to 2020 for similar reasons. Equity in earnings of unconsolidated affiliates could be negatively impacted if the COVID-19 pandemic causes losses related to customer difficulties.

### ***Earnings Per Common Share - Diluted***

Diluted earnings per common share was \$0.21 higher in the second quarter of 2021 as compared to 2020 due to an increase in net income for the reasons discussed above.

### **Six Months Ended June 30, 2021 and 2020**

#### ***Rental and Other Revenues***

Rental and other revenues were \$6.6 million, or 1.8%, lower in the first six months of 2021 as compared to 2020 primarily due to lost revenue from property dispositions and lower same property revenues, which decreased rental and other revenues by \$15.1 million and \$2.4 million, respectively. Same property rental and other revenues were lower primarily due to a decrease in average occupancy and lower cost recovery and parking income as a result of reduced usage of our assets because of the COVID-19 pandemic, partly offset by higher average GAAP rents per rentable square foot and lower credit losses. These decreases were partly offset by the acquisition of our joint venture partner's 75.0% interest in the Forum, development properties placed in service and the recognition of deferred leasing commission income that was received in connection with the acquisition, which increased rental and other revenues by \$7.6 million, \$2.3 million and \$1.5 million, respectively.

#### ***Operating Expenses***

Rental property and other expenses were \$4.9 million, or 4.2%, lower in the first six months of 2021 as compared to 2020 primarily due to property dispositions and lower same property operating expenses, which decreased operating expenses by \$5.9 million and \$1.2 million, respectively. Same property operating expenses were lower primarily due to lower repairs and maintenance and contract services as a result of reduced usage of our assets because of the COVID-19 pandemic, partly offset by higher property taxes. These decreases were partly offset by the acquisition of our joint venture partner's 75.0% interest in the Forum and development properties placed in service, which increased operating expenses by \$1.7 million and \$0.4 million, respectively.

Depreciation and amortization was \$2.3 million, or 1.9%, higher in the first six months of 2021 as compared to 2020 primarily due to the acquisition of our joint venture partner's 75.0% interest in the Forum, development properties placed in service and higher same property lease related depreciation and amortization, partly offset by fully amortized acquisition-related intangible assets and property dispositions.

We recorded an impairment of real estate assets of \$1.8 million in the first six months of 2020, which resulted from a change in market-based inputs and our assumptions about the use of the assets. We recorded no such impairment in 2021.

General and administrative expenses were \$1.0 million, or 4.5%, lower in the first six months of 2021 as compared to 2020 primarily due to lower severance and early retirement costs. We also experienced lower salaries and benefits in 2021 as a result of the reduction in the number of employees throughout 2020 primarily due to our exiting of the Greensboro and Memphis markets and the subsequent closing of those division offices and the resulting synergies garnered from the ongoing simplification of our business. These decreases were partly offset in 2021 by higher incentive compensation and gains on deferred compensation plan investments (which is fully offset by a corresponding increase in other income).

***Interest Expense***

Interest expense was \$2.3 million, or 5.7%, lower in the first six months of 2021 as compared to 2020 primarily due to lower average interest rates and higher capitalized interest, partly offset by higher average debt balances.

***Other Income***

Other income was unchanged in the first six months of 2021 as compared to 2020 due to losses on debt extinguishment in 2021, lower interest income and late fees, partly offset by gains on deferred compensation plan investments (which is fully offset by a corresponding increase in general and administrative expenses).

***Gains on Disposition of Property***

Gains on disposition of property were \$111.6 million lower in the first six months of 2021 as compared to 2020 primarily due to our market rotation plan of exiting the Greensboro and Memphis markets in 2020.

***Equity in Earnings of Unconsolidated Affiliates***

Equity in earnings of unconsolidated affiliates was \$1.1 million, or 50.1%, lower in the first six months of 2021 as compared to 2020 primarily due to the acquisition of our joint venture partner's 75.0% interest in the Forum and lower average occupancy.

***Earnings Per Common Share - Diluted***

Diluted earnings per common share was \$1.05 lower in the first six months of 2021 as compared to 2020 due to a decrease in net income for the reasons discussed above.



## Liquidity and Capital Resources

### Statements of Cash Flows

We report and analyze our cash flows based on operating activities, investing activities and financing activities. The following table sets forth the changes in the Company's cash flows (in thousands):

	Six Months Ended June 30,		
	2021	2020	Change
Net Cash Provided By Operating Activities	\$ 197,415	\$ 180,215	\$ 17,200
Net Cash Provided By/(Used In) Investing Activities	(228,417)	129,729	(358,146)
Net Cash Used In Financing Activities	(99,809)	(310,979)	211,170
<b>Total Cash Flows</b>	<b>\$ (130,811)</b>	<b>\$ (1,035)</b>	<b>\$ (129,776)</b>

The change in net cash provided by operating activities in the first six months of 2021 as compared to 2020 was primarily due to higher net cash from the operations of the acquisition of our joint venture partner's 75.0% interest in the Forum, same properties and development properties placed in service and changes in operating assets, partly offset by property dispositions and changes in operating liabilities. We expect net cash related to operating activities to be higher for the remainder of 2021 as compared to 2020 due to the acquisition of our joint venture partner's 75.0% interest in the Forum, development properties placed in service and same properties, partly offset by property dispositions.

The change in net cash provided by/(used in) investing activities in the first six months of 2021 as compared to 2020 was primarily due to net proceeds from disposition activity in 2020, the acquisition of our joint venture partner's 75.0% interest in the Forum in 2021 and payments of earnest money deposits for the expected acquisition of a portfolio of office assets from PAC in 2021, partly offset by higher investments in tenant improvements and development in-process in 2020. We expect uses of cash for investing activities for the remainder of 2021 to be primarily driven by whether or not we acquire and/or commence development of additional office buildings. Additionally, as of June 30, 2021, we have approximately \$51 million left to fund of our previously-announced development activity in 2021 and future years. We expect these uses of cash for investing activities will be partly offset by proceeds from property dispositions for the remainder of 2021.

The change in net cash used in financing activities in the first six months of 2021 as compared to 2020 was primarily due to higher net debt repayments in 2020. Assuming the net effect of our acquisition, disposition and development activity in 2021 results in an increase to our assets, we would expect outstanding debt and/or Common Stock balances to increase.

### Capitalization

The following table sets forth the Company's capitalization (in thousands, except per share amounts):

	June 30, 2021	December 31, 2020
Mortgages and notes payable, net, at recorded book value	\$ 2,475,902	\$ 2,470,021
Preferred Stock, at liquidation value	\$ 28,821	\$ 28,826
Common Stock outstanding	104,210	103,922
Common Units outstanding (not owned by the Company)	2,838	2,839
Per share stock price at period end	\$ 45.17	\$ 39.63
Market value of Common Stock and Common Units	\$ 4,835,358	\$ 4,230,938
Total capitalization	\$ 7,340,081	\$ 6,729,785

At June 30, 2021, our mortgages and notes payable and outstanding preferred stock represented 34.1% of our total capitalization and 37.3% of the undepreciated book value of our assets. See also "Executive Summary - Liquidity and Capital Resources."

Our mortgages and notes payable as of June 30, 2021 consisted of \$92.3 million of secured indebtedness with an interest rate of 4.0% and \$2,396.5 million of unsecured indebtedness with a weighted average interest rate of 3.26%. The secured

indebtedness was collateralized by real estate assets with an undepreciated book value of \$147.9 million. As of June 30, 2021, \$305.0 million of our debt does not bear interest at fixed rates or is not protected by interest rate hedge contracts.

### **Investment Activity**

In the normal course of business, we regularly evaluate potential acquisitions. As a result, from time to time, we may have one or more potential acquisitions under consideration that are in varying stages of evaluation, negotiation or due diligence, including potential acquisitions that are subject to non-binding letters of intent or enforceable contracts. Consummation of any transaction is subject to a number of contingencies, including the satisfaction of customary closing conditions. No assurances can be provided that we will acquire any properties in the future. See “Item 1A. Risk Factors - Risks Related to our Capital Recycling Activity - Recent and future acquisitions and development properties may fail to perform in accordance with our expectations and may require renovation and development costs exceeding our estimates” in our 2020 Annual Report on Form 10-K.

During the second quarter of 2021, we agreed to acquire a portfolio of office assets from PAC. The core portfolio to be acquired consists of the following four Class A office assets in Charlotte and Raleigh, which encompass 1,630,000 square feet in total, and one mixed-use redevelopment site in Atlanta: 150 Fayetteville, Raleigh (CBD); CAPTRUST Tower, Raleigh (North Hills); Capitol Towers, Charlotte (SouthPark); Morrocroft Centre, Charlotte (SouthPark); and Galleria 75, Atlanta (Cumberland/Galleria). We have also agreed to acquire two non-core assets: a mezzanine loan related to a recently constructed office building in Atlanta; and Armour Yards, a multi-building creative office project in Atlanta. Our total investment, including the estimated value of the non-core assets, is expected to be \$769 million, which includes \$28 million of near-term building improvements and \$5 million of transaction costs. The transaction is expected to include, among other things, the assumption of four secured loans collateralized by the core office buildings estimated to be recorded at fair value of \$403 million in the aggregate, with a weighted average effective interest rate of 3.7% and a weighted average maturity of 10.8 years. The value of the non-core assets represents less than 12% of the anticipated total investment. The acquisition, which is subject to customary closing conditions, is scheduled to close within 30 days of the filing of this Quarterly Report. As of July 20, 2021, we have posted \$60.0 million of earnest money deposits (of which \$55.0 million were recorded in prepaid expenses and other assets at June 30, 2021) that are non-refundable except in limited circumstances. As part of the transaction, PAC will separately market Armour Yards for sale to a third party. If PAC chooses not to sell Armour Yards to a third party, we will close on the acquisition of the creative office project no later than the first quarter of 2022.

We plan to fund the initial \$250 million cash portion of the purchase price with a combination of restricted cash currently held in escrow as the result of recent non-core asset sales, borrowings under our current \$750 million unsecured revolving credit facility and an expected \$200 million, six-month unsecured bridge facility from JPMorgan Chase Bank, N.A. Both facilities bear interest at LIBOR plus 90 basis points. The bridge facility, which is subject to definitive documentation and customary conditions, can be extended at our option for an additional six-month period and will contain financial and other covenants that are similar to the covenants under our revolving credit facility.

Our plan is to ultimately fund the acquisition primarily by accelerating the sale of \$500 to \$600 million of existing non-core assets by mid-2022, approximately half of which is planned to close by year-end 2021. Since our announcement on April 19, 2021 to acquire the portfolio of office assets from PAC, we have sold \$43.0 million of non-core assets. We can provide no assurances, however, that we will dispose of any assets on favorable terms, or at all, because the dispositions are subject to the negotiation and execution of sale agreements and would then be subject to the buyers’ completion of satisfactory due diligence and other customary closing conditions. Approximately \$250 million, or an amount equal to the cash portion of the purchase price, of the planned dispositions are expected to qualify for tax-deferred treatment under Section 1031 of the Internal Revenue Code.

During the second quarter of 2021, we acquired development land in Nashville for a purchase price, including capitalized acquisition costs, of \$16.1 million, which is expected to be paid within two years.

During the second quarter of 2021, we sold a building in Tampa for a sale price of \$43.0 million (before closing credits to buyer of \$0.9 million) and recorded a gain on disposition of property of \$22.9 million.

The following table summarizes our in-process office development as of June 30, 2021:

Property	Market	Rentable Square Feet	Anticipated Total Investment (1)	Investment As Of June 30, 2021 (1)	Pre Leased %	Estimated Completion	Estimate Stabilization
(\$ in thousands)							
Asurion	Nashville	552,800	\$ 285,000	\$ 263,268	98.4 %	4Q 21	4Q 21
		<b>552,800</b>	<b>\$ 285,000</b>	<b>\$ 263,268</b>	<b>98.4 %</b>		

(1) Includes deferred lease commissions which are classified in deferred leasing costs on our Consolidated Balance Sheets.

## Financing Activity

During 2020, we entered into separate equity distribution agreements with each of Wells Fargo Securities, LLC, BofA Securities, Inc., BTIG, LLC, Capital One Securities, Inc., Fifth Third Securities, Inc., Jefferies LLC, J.P. Morgan Securities LLC, Regions Securities LLC and SunTrust Robinson Humphrey, Inc. Under the terms of the equity distribution agreements, the Company may offer and sell up to \$300.0 million in aggregate gross sales price of shares of Common Stock from time to time through such firms, acting as agents of the Company or as principals. Sales of the shares, if any, may be made by means of ordinary brokers' transactions on the New York Stock Exchange ("NYSE") or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices or as otherwise agreed with any of such firms (which may include block trades). During the second quarter of 2021, the Company issued 149,100 shares of Common Stock at an average gross sales price of \$46.11 per share and received net proceeds, after sales commissions, of \$6.8 million. We paid an aggregate of \$0.1 million in sales commissions to Wells Fargo Securities, LLC during the second quarter of 2021.

During the second quarter of 2021, we prepaid without penalty the remaining \$150.0 million principal amount of 3.20% unsecured notes that was scheduled to mature in June 2021. We recorded \$0.1 million of loss on debt extinguishment related to this prepayment.

During the first quarter of 2021, we entered into a new \$750.0 million unsecured revolving credit facility, which replaced our previously existing \$600.0 million revolving credit facility and includes an accordion feature that allows for an additional \$550.0 million of borrowing capacity subject to additional lender commitments. Our new revolving credit facility is scheduled to mature in March 2025. Assuming no defaults have occurred, we have an option to extend the maturity for two additional six-month periods. The current interest rate on the new facility at our existing credit ratings is LIBOR plus 90 basis points and the annual facility fee is 20 basis points. The interest rate and facility fee are based on the higher of the publicly announced ratings from Moody's Investors Service or Standard & Poor's Ratings Services. The financial and other covenants under the new facility are substantially similar to our previous credit facility. We incurred \$4.8 million of debt issuance costs, which will be amortized along with certain existing unamortized debt issuance costs over the remaining term of our new revolving credit facility. We recorded \$0.1 million of loss on debt extinguishment. There was \$155.0 million outstanding under our new revolving credit facility at both June 30, 2021 and July 20, 2021. At both June 30, 2021 and July 20, 2021, we had \$0.1 million of outstanding letters of credit, which reduces the availability on our revolving credit facility. As a result, the unused capacity of our revolving credit facility at both June 30, 2021 and July 20, 2021 was \$594.9 million.

We are currently in compliance with financial covenants and other requirements with respect to our consolidated debt. Although we expect to remain in compliance with these covenants and ratios for at least the next year, depending upon our future operating performance, property and financing transactions and general economic conditions, we cannot assure you that we will continue to be in compliance.

Our revolving credit facility and bank term loans require us to comply with customary operating covenants and various financial requirements. Upon an event of default on our revolving credit facility, the lenders having at least 51.0% of the total commitments under our revolving credit facility can accelerate all borrowings then outstanding, and we could be prohibited from borrowing any further amounts under our revolving credit facility, which would adversely affect our ability to fund our operations. In addition, certain of our unsecured debt agreements contain cross-default provisions giving the unsecured lenders the right to declare a default if we are in default under more than \$35.0 million with respect to other loans in some circumstances.

The indenture that governs the Operating Partnership's outstanding notes requires us to comply with customary operating covenants and various financial ratios. The trustee or the holders of at least 25.0% in principal amount of any series of notes can accelerate the principal amount of such series upon written notice of a default that remains uncured after 60 days.

We may not be able to repay, refinance or extend any or all of our debt at maturity or upon any acceleration. If any refinancing is done at higher interest rates, the increased interest expense could adversely affect our cash flow and ability to pay distributions. Any such refinancing could also impose tighter financial ratios and other covenants that restrict our ability to take actions that could otherwise be in our best interest, such as funding new development activity, making opportunistic acquisitions, repurchasing our securities or paying distributions.

### **Dividends and Distributions**

To maintain its qualification as a REIT, the Company must pay dividends to stockholders that are at least 90.0% of its annual REIT taxable income, excluding net capital gains. The partnership agreement requires the Operating Partnership to distribute at least enough cash for the Company to be able to pay such dividends. The Company's REIT taxable income, as determined by the federal tax laws, does not equal its net income under accounting principles generally accepted in the United States of America ("GAAP"). In addition, although capital gains are not required to be distributed to maintain REIT status, capital gains, if any, are subject to federal and state income tax unless such gains are distributed to stockholders.

Cash dividends and distributions reduce the amount of cash that would otherwise be available for other business purposes, including funding debt maturities, reducing debt or future growth initiatives. The amount of future distributions that will be made is at the discretion of the Company's Board of Directors. For a discussion of the factors that will affect such cash flows and, accordingly, influence the decisions of the Company's Board of Directors regarding dividends and distributions, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources - Dividends and Distributions" in our 2020 Annual Report on Form 10-K.

During the second quarter of 2021, the Company declared and paid a cash dividend of \$0.48 per share of Common Stock.

On July 27, 2021, the Company declared a cash dividend of \$0.50 per share of Common Stock, which is payable on September 8, 2021 to stockholders of record as of August 16, 2021.

### **Current and Future Cash Needs**

We anticipate that our available cash and cash equivalents, cash flows from operating activities and other available financing sources, including the issuance of debt securities by the Operating Partnership, the issuance of secured debt, bank term loans, borrowings under our revolving credit facility and an expected \$200 million, six-month unsecured bridge facility from JPMorgan Chase Bank, N.A., the issuance of equity securities by the Company or the Operating Partnership and the disposition of non-core assets, will be adequate to meet our short-term liquidity requirements, including funding the \$250 million cash portion of the purchase price to acquire a portfolio of assets from PAC. See "Investment Activity."

The unused capacity of our revolving credit facility at both June 30, 2021 and July 20, 2021 was \$594.9 million, excluding an accordion feature that allows for an additional \$550.0 million of borrowing capacity subject to additional lender commitments.

We have a currently effective automatic shelf registration statement on Form S-3 with the SEC pursuant to which, at any time and from time to time, in one or more offerings on an as-needed basis, the Company may sell an indefinite amount of common stock, preferred stock and depositary shares and the Operating Partnership may sell an indefinite amount of debt securities, subject to our ability to effect offerings on satisfactory terms based on prevailing market conditions.

The Company from time to time enters into equity distribution agreements with a variety of firms pursuant to which the Company may offer and sell shares of common stock from time to time through such firms, acting as agents of the Company or as principals. Sales of the shares, if any, may be made by means of ordinary brokers' transactions on the NYSE or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices or as otherwise agreed with any of such firms (which may include block trades).

As noted above under "Investment Activity," we announced a plan to sell \$250 million to \$300 million of non-core assets during the remainder of 2021. Since our announcement, we have sold \$43 million of non-core assets and expect to sell an additional \$207 million to \$257 million of properties no longer considered to be core assets due to location, age, quality and/or overall strategic fit. We can make no assurance, however, that we will sell any non-core assets or, if we do, what the timing or terms of any such sale will be.

See also "Executive Summary - Liquidity and Capital Resources."

### **Critical Accounting Estimates**

There were no changes made by management to the critical accounting policies in the six months ended June 30, 2021. For a description of our critical accounting estimates, see “Management’s Discussion and Analysis of Financial Condition and Results of Operations - Critical Accounting Estimates” in our 2020 Annual Report on Form 10-K.

### **Non-GAAP Information**

The Company believes that FFO, FFO available for common stockholders and FFO available for common stockholders per share are beneficial to management and investors and are important indicators of the performance of any equity REIT. Because these FFO calculations exclude such factors as depreciation, amortization and impairments of real estate assets and gains or losses from sales of operating real estate assets, which can vary among owners of identical assets in similar conditions based on historical cost accounting and useful life estimates, they facilitate comparisons of operating performance between periods and between other REITs. Management believes that historical cost accounting for real estate assets in accordance with GAAP implicitly assumes that the value of real estate assets diminishes predictably over time. Since real estate values have historically risen or fallen with market conditions, management believes the use of FFO, FFO available for common stockholders and FFO available for common stockholders per share, together with the required GAAP presentations, provides a more complete understanding of the Company’s performance relative to its competitors and a more informed and appropriate basis on which to make decisions involving operating, financing and investing activities.

FFO, FFO available for common stockholders and FFO available for common stockholders per share are non-GAAP financial measures and therefore do not represent net income or net income per share as defined by GAAP. Net income and net income per share as defined by GAAP are the most relevant measures in determining the Company’s operating performance because these FFO measures include adjustments that investors may deem subjective, such as adding back expenses such as depreciation, amortization and impairments. Furthermore, FFO available for common stockholders per share does not depict the amount that accrues directly to the stockholders’ benefit. Accordingly, FFO, FFO available for common stockholders and FFO available for common stockholders per share should never be considered as alternatives to net income, net income available for common stockholders, or net income available for common stockholders per share as indicators of the Company’s operating performance.

The Company’s presentation of FFO is consistent with FFO as defined by the National Association of Real Estate Investment Trusts, which is calculated as follows:

- Net income/(loss) computed in accordance with GAAP;
- Less net income attributable to noncontrolling interests in consolidated affiliates;
- Plus depreciation and amortization of depreciable operating properties;
- Less gains, or plus losses, from sales of depreciable operating properties, plus impairments on depreciable operating properties and excluding items that are classified as extraordinary items under GAAP;
- Plus or minus our share of adjustments, including depreciation and amortization of depreciable operating properties, for unconsolidated joint venture investments (to reflect funds from operations on the same basis); and
- Plus or minus adjustments for depreciation and amortization and gains/(losses) on sales of depreciable operating properties, plus impairments on depreciable operating properties, and noncontrolling interests in consolidated affiliates related to discontinued operations.

In calculating FFO, the Company includes net income attributable to noncontrolling interests in the Operating Partnership, which the Company believes is consistent with standard industry practice for REITs that operate through an UPREIT structure. The Company believes that it is important to present FFO on an as-converted basis since all of the Common Units not owned by the Company are redeemable on a one-for-one basis for shares of its Common Stock.

The following table sets forth the Company's FFO, FFO available for common stockholders and FFO available for common stockholders per share (in thousands, except per share amounts):

	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2021</b>	<b>2020</b>	<b>2021</b>	<b>2020</b>
<b>Funds from operations:</b>				
Net income	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Net (income) attributable to noncontrolling interests in consolidated affiliates	(294)	(289)	(575)	(574)
Depreciation and amortization of real estate assets	61,293	58,764	121,521	119,196
Impairments of depreciable properties	—	1,778	—	1,778
(Gains) on disposition of depreciable properties	(22,862)	—	(41,799)	(152,661)
Unconsolidated affiliates:				
Depreciation and amortization of real estate assets	181	581	399	1,150
<b>Funds from operations</b>	<b>100,162</b>	<b>99,790</b>	<b>198,245</b>	<b>199,185</b>
Dividends on Preferred Stock	(621)	(622)	(1,243)	(1,244)
<b>Funds from operations available for common stockholders</b>	<b>\$ 99,541</b>	<b>\$ 99,168</b>	<b>\$ 197,002</b>	<b>\$ 197,941</b>
<b>Funds from operations available for common stockholders per share</b>	<b>\$ 0.93</b>	<b>\$ 0.93</b>	<b>\$ 1.84</b>	<b>\$ 1.86</b>
<b>Weighted average shares outstanding (1)</b>	<b>106,964</b>	<b>106,730</b>	<b>106,887</b>	<b>106,681</b>

(1) Includes assumed conversion of all potentially dilutive Common Stock equivalents.

In addition, the Company believes NOI and same property NOI are useful supplemental measures of the Company's property operating performance because such metrics provide a performance measure of the revenues and expenses directly involved in owning real estate assets and a perspective not immediately apparent from net income or FFO. The Company defines NOI as rental and other revenues less rental property and other expenses. The Company defines cash NOI as NOI less lease termination fees, straight-line rent, amortization of lease incentives and amortization of acquired above and below market leases. Other REITs may use different methodologies to calculate NOI, same property NOI and cash NOI.

As of June 30, 2021, our same property portfolio consisted of 161 in-service properties encompassing 25.7 million rentable square feet that were wholly owned during the entirety of the periods presented (from January 1, 2020 to June 30, 2021). As of December 31, 2020, our same property portfolio consisted of 159 in-service properties encompassing 24.4 million rentable square feet that were wholly owned during the entirety of the periods presented (from January 1, 2019 to December 31, 2020). The change in our same property portfolio was due to the addition of one property encompassing 0.8 million rentable square feet acquired during 2019 and three newly developed properties encompassing 0.7 million rentable square feet placed in service during 2019. These additions were offset by the removal of two properties encompassing 0.2 million rentable square feet that were sold during 2021.

Rental and other revenues related to properties not in our same property portfolio were \$8.4 million and \$7.2 million for the three months ended June 30, 2021 and 2020, respectively, and \$15.9 million and \$20.1 million for the six months ended June 30, 2021 and 2020, respectively. Rental property and other expenses related to properties not in our same property portfolio were \$2.0 million and \$2.3 million for the three months ended June 30, 2021 and 2020, respectively, and \$3.6 million and \$7.3 million for the six months ended June 30, 2021 and 2020, respectively.

The following table sets forth the Company's NOI, same property NOI and same property cash NOI (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b>Net income</b>	\$ 61,844	\$ 38,956	\$ 118,699	\$ 230,296
Equity in earnings of unconsolidated affiliates	(431)	(1,179)	(1,068)	(2,142)
Gains on disposition of property	(22,862)	(318)	(41,799)	(153,385)
Other income	(332)	(588)	(644)	(657)
Interest expense	19,001	19,840	38,769	41,117
General and administrative expenses	10,107	10,084	20,059	21,014
Impairments of real estate assets	—	1,778	—	1,778
Depreciation and amortization	61,949	59,461	122,876	120,611
<b>Net operating income</b>	<u>129,276</u>	<u>128,034</u>	<u>256,892</u>	<u>258,632</u>
Non same property and other net operating income	(6,378)	(4,930)	(12,282)	(12,839)
<b>Same property net operating income</b>	<u>\$ 122,898</u>	<u>\$ 123,104</u>	<u>\$ 244,610</u>	<u>\$ 245,793</u>
Same property net operating income	\$ 122,898	\$ 123,104	\$ 244,610	\$ 245,793
Lease termination fees, straight-line rent and other non-cash adjustments (1)	(3,305)	(15,458)	(6,734)	(26,237)
<b>Same property cash net operating income</b>	<u>\$ 119,593</u>	<u>\$ 107,646</u>	<u>\$ 237,876</u>	<u>\$ 219,556</u>

(1) Includes \$0.9 million and \$2.1 million of repayments of temporary rent deferrals, net of additional temporary rent deferrals granted by the Company during the three and six months ended June 30, 2021, respectively. Includes \$5.0 million of temporary rent deferrals granted by the Company during both the three and six months ended June 30, 2020.

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The effects of potential changes in interest rates are discussed below. Our market risk discussion includes “forward-looking statements” and represents an estimate of possible changes in fair value or future earnings that would occur assuming hypothetical future movements in interest rates. Actual future results may differ materially from those presented. See “Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources” and the Notes to Consolidated Financial Statements for a description of our accounting policies and other information related to these financial instruments.

We borrow funds at a combination of fixed and variable rates. Borrowings under our revolving credit facility and bank term loans bear interest at variable rates. Our long-term debt, which consists of secured and unsecured long-term financings, typically bears interest at fixed rates. Our interest rate risk management objectives are to limit generally the impact of interest rate changes on earnings and cash flows and lower our overall borrowing costs. To achieve these objectives, from time to time we enter into interest rate hedge contracts such as collars, swaps, caps and treasury lock agreements in order to mitigate our interest rate risk with respect to existing and prospective debt instruments. We generally do not hold or issue these derivative contracts for trading or speculative purposes.

At June 30, 2021, we had \$2,133.8 million principal amount of fixed rate debt outstanding, a \$150.2 million decrease as compared to December 31, 2020, excluding debt with a variable rate that is effectively fixed by related interest rate hedge contracts. The estimated aggregate fair market value of this debt was \$2,277.3 million. If interest rates had been 100 basis points higher, the aggregate fair market value of our fixed rate debt would have been \$141.4 million lower. If interest rates had been 100 basis points lower, the aggregate fair market value of our fixed rate debt would have been \$153.3 million higher.

At June 30, 2021, we had \$305.0 million of variable rate debt outstanding, a \$155.0 million increase as compared to December 31, 2020, not protected by interest rate hedge contracts. If the weighted average interest rate on this variable rate debt had been 100 basis points higher or lower, the annual interest expense at June 30, 2021 would increase or decrease by \$3.1 million.

At June 30, 2021, we had \$50.0 million of variable rate debt outstanding with \$50.0 million of related floating-to-fixed interest rate swaps. These swaps effectively fix the underlying one-month LIBOR rate at a weighted average rate of 1.693%. If the underlying LIBOR interest rates increase or decrease by 100 basis points, the aggregate fair market value of the swaps at June 30, 2021 would increase or decrease by \$0.3 million.

We are exposed to certain losses in the event of nonperformance by the counterparties, which are major financial institutions, under the swaps. We regularly evaluate the financial condition of our counterparties using publicly available information. Based on this review, we currently expect the counterparties to perform fully under the swaps. However, if a counterparty defaults on its obligations under a swap, we could be required to pay the full rates on the applicable debt, even if such rates were in excess of the rate in the contract.



#### **ITEM 4. CONTROLS AND PROCEDURES**

SEC rules require us to maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our annual and periodic reports filed with the SEC is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management to allow for timely decisions regarding required disclosure. The Company's CEO and CFO have concluded that the disclosure controls and procedures of the Company and the Operating Partnership were each effective at the end of the period covered by this Quarterly Report.

SEC rules also require us to establish and maintain internal control over financial reporting designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. There were no changes in internal control over financial reporting during the three months ended June 30, 2021 that materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting. There were also no changes in internal control over financial reporting during the three months ended June 30, 2021 that materially affected, or are reasonably likely to materially affect, the Operating Partnership's internal control over financial reporting.

## PART II - OTHER INFORMATION

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

During the second quarter of 2021, the Company issued an aggregate of 1,000 shares of Common Stock to holders of Common Units in the Operating Partnership upon the redemption of a like number of Common Units in private offerings exempt from the registration requirements pursuant to Section 4(2) of the Securities Act. Each of the holders of Common Units was an accredited investor under Rule 501 of the Securities Act. The resale of such shares was registered by the Company under the Securities Act.

### ITEM 5. OTHER INFORMATION

The Company has announced that Mark F. Mulhern, 61, will retire as Executive Vice President and Chief Financial Officer effective January 1, 2022. Brendan C. Maiorana, 45, who currently serves as Executive Vice President of Finance and Treasurer, will assume the role of Executive Vice President, Chief Financial Officer and Treasurer upon Mr. Mulhern's retirement. Mr. Maiorana became Executive Vice President of Finance in July 2019 and assumed the role of Treasurer in January 2021. Prior to that, he was our Senior Vice President of Finance and Investor Relations since May 2016. Prior to joining Highwoods, Mr. Maiorana spent 11 years in equity research at Wells Fargo Securities, starting as an associate equity research analyst. Prior to that, he worked four years at Ernst & Young LLP.

### ITEM 6. EXHIBITS

Exhibit Number	Description
10.1	<a href="#">2021 Long-Term Equity Incentive Plan (filed as part of the Company's Current Report on Form 8-K dated May 11, 2021)</a>
10.2	<a href="#">Purchase and Sale Agreement dated as of April 16, 2021 by and among POP 4208 Six Forks Road, L.P., POP Morrocroft, L.P., POP 150 Fayetteville, LP, POP Capitol Towers, LP, PAC Galleria 75, LLC, POP 8 West Mezzanine Lending, LLC and Highwoods Realty Limited Partnership</a>
10.3	<a href="#">Purchase and Sale Agreement dated as of April 16, 2021 by and among POP Armour Yards, LLC, POP 251 Armour Yards, LLC and Highwoods Realty Limited Partnership (portions of the exhibit have been omitted)</a>
31.1	<a href="#">Certification of CEO Pursuant to Section 302 of the Sarbanes-Oxley Act for the Company</a>
31.2	<a href="#">Certification of CFO Pursuant to Section 302 of the Sarbanes-Oxley Act for the Company</a>
31.3	<a href="#">Certification of CEO Pursuant to Section 302 of the Sarbanes-Oxley Act for the Operating Partnership</a>
31.4	<a href="#">Certification of CFO Pursuant to Section 302 of the Sarbanes-Oxley Act for the Operating Partnership</a>
32.1	<a href="#">Certification of CEO Pursuant to Section 906 of the Sarbanes-Oxley Act for the Company</a>
32.2	<a href="#">Certification of CFO Pursuant to Section 906 of the Sarbanes-Oxley Act for the Company</a>
32.3	<a href="#">Certification of CEO Pursuant to Section 906 of the Sarbanes-Oxley Act for the Operating Partnership</a>
32.4	<a href="#">Certification of CFO Pursuant to Section 906 of the Sarbanes-Oxley Act for the Operating Partnership</a>
101.INS	Inline XBRL Instance Document (the instance document does not appear in the interactive data file because its XBRL tags are embedded within the Inline XBRL document)
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)



**PURCHASE AND SALE**

**AGREEMENT**

**dated**

**April 16, 2021**

**by and among**

**POP 4208 SIX FORKS ROAD, L.P., POP MORROCROFT, L.P., POP 150 FAYETTEVILLE, LP, POP CAPITOL TOWERS, LP, PAC GALLERIA 75, LLC, POP 8 WEST MEZZANINE LENDING, LLC, PREFERRED OFFICE PROPERTIES, LLC**

**SELLER**

**and**

**HIGHWOODS REALTY LIMITED PARTNERSHIP,**

**PURCHASER**

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## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”) is dated and made as of April 16, 2021 (the “**Effective Date**”) by and among (i) POP 4208 SIX FORKS ROAD, L.P., a Delaware limited partnership, POP MORROCROFT, L.P., a Delaware limited partnership, POP 150 FAYETTEVILLE, LP, a Delaware limited partnership, POP CAPITOL TOWERS, LP, a Delaware limited partnership, PAC GALLERIA 75, LLC, a Delaware limited liability company, and POP 8 WEST MEZZANINE LENDING, LLC, a Delaware limited liability company (individually and collectively, “**Seller**”), having an address at 3284 Northside Parkway, Suite 150, Atlanta, GA 30327, and (ii) HIGHWOODS REALTY LIMITED PARTNERSHIP, a North Carolina limited partnership with an office at 3100 Smoketree Court, Suite 600, Raleigh, North Carolina 27604 (“**Purchaser**”). PREFERRED OFFICE PROPERTIES, LLC, a Delaware limited liability company (“**POP**”) executes this agreement for the sole purpose of agreeing to the provisions of **Section 4.4(g) (ii)**.

### RECITALS

A. Seller desires to sell and Purchaser desires to purchase all of Seller’s right, title and interest in and to the Property, upon the terms and conditions set forth in this Agreement.

B. Certain rules of construction for interpreting this Agreement are set forth on **Schedule 1** attached hereto which is hereby incorporated in and constitutes part of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as set forth below.

### ARTICLE I

#### SALE OF THE PROPERTY AND MEZZANINE LOAN

**1.1 Sale of Property.** Seller agrees to sell, transfer and assign to Purchaser and Purchaser agrees to purchase, accept and assume from Seller, subject to and in accordance with the terms and conditions of this Agreement, all of Seller’s right, title and interest in and to the following (collectively, the “**Property**”):

(a) **Land.** The following parcels of real property (individually, a “**Tract**”, and collectively, the “**Land**” or “**Tracts**”):

(i) fee simple interest in a tract or tracts of land located in Raleigh, Wake County, North Carolina, described on **Exhibit A-1**, on which is located one (1) office building containing approximately 300,389 square feet known as “*Captrust Tower*” (the “**Captrust Tower Tract**”);

(ii) fee simple interest and leasehold interest in a tract or tracts of land located in Raleigh, Wake County, North Carolina, described on **Exhibit A-2**, on which is



located one (1) office building containing approximately 560,000 square feet known as “150 Fayetteville” (the “**150 Fayetteville Tract**”);

(iii) fee simple interest in a tract or tracts of land located in Charlotte, Mecklenburg County, North Carolina, described on **Exhibit A-3**, on which is located four (4) office buildings and one (1) retail building) containing approximately 478,630 square feet, in the aggregate, known as “Capitol Towers” (the “**Capitol Towers Tract**”);

(iv) fee simple interest in a tract or tracts of land located in Charlotte, Mecklenburg County, North Carolina, described on **Exhibit A-4**, on which is located three (3) office buildings containing approximately 292,000 square feet, in the aggregate, known as “Morrocroft Centre” (the “**Morrocroft Centre Tract**”); and

(v) fee simple interest in a tract or tracts of land in Atlanta, Cobb County, Georgia, described on **Exhibit A-5**, known as “Galleria 75” (the “**Galleria 75 Tract**”);

together with all and singular easements, covenants, agreements, rights, privileges, tenements, and hereditaments thereunto now or hereafter belonging or appertaining thereto, and any and all oil, gas and mineral rights relating to such real estate, water and water rights, ditch and any other rights to use and appropriate water from or relating to such real estate;

(b) **Appurtenances**. All rights, easements, licenses, appurtenances, tenements, hereditaments, privileges and other rights appurtenant to the Land (the “**Appurtenances**”);

(c) **Improvements**. All buildings, structures, facilities, installations, fixtures and other improvements of every kind located on, under or within the Land (the “**Improvements**”);

(d) **Leases**.

(i) **Ground Leases**. Seller’s right, title and interest, as tenant, under (A) that certain Terms and Conditions of Ground Lease by and between Thomas E. Green, Jr., Thomas E. Green, III, David Phillip Fisher Green, Anna Green Ligon, and husband J. Henry Ligon, and Catherine S. Green (collectively, as landlord), and Charles E. Marsh, III (as tenant), a memorandum of which is recorded in Book 3530, Page 36, Wake County Registry, as subsequently assigned (the “**Green Ground Lease**”); and (B) that certain Parking Ground Lease Agreement, including the option to purchase, by and between First Union National Bank (as landlord) and G&I II Capitol Center Garage LLC (as tenant), a memorandum of which is recorded in Book 8430, Page 1615, Wake County Registry, as subsequently assigned (the “**Parking Ground Lease**” and together with the Green Ground Lease each, a “**Ground Lease**” and collectively, the “**Ground Leases**”);

(ii) Seller’s right, title and interest in and to all leases, subleases, licenses or other occupancy agreements including all amendments, affecting the Land and

Improvements which are shown on **Exhibit B** attached hereto and any New Leases (as hereinafter defined in **Section 10.3**) (collectively, the “**Leases**”), including any guaranties of such Leases and any security deposits under such Leases;

(e) **Fixtures and Personal Property.** All tangible personal property (the “**Tangible Personal Property**”) upon, under or within the Land or Appurtenances, including specifically, without limitation, fixtures, machinery systems, equipment and other items of tangible personal property owned by Seller and used in connection with the ownership, use, maintenance and operation of the Land or the Improvements (with the Building Systems (as defined below) the “**Fixtures and Personal Property**”). The Fixtures and Personal Property shall include the building management systems, including the software and the associated server (including those utilized in the operation of the HVAC and card access controls), together with any controller or programmable logic control that is part of the base building system of any building, including, but not limited to mechanical, electrical and life safety systems (all collectively referred to herein as the “**Building Systems**”), but only if the Building Systems, or any portion thereof, are located in, and maintained at, any of the buildings located on the Improvements (a “**Building**” or “**Buildings**”), that is, no Building System will be conveyed to Purchaser if it is located and/or maintained off site from the Buildings;

(f) **Service Agreements.** All service agreements listed on **Exhibit C** attached hereto and any New Service Agreements (as defined in **Section 10.3**) (collectively, the “**Service Agreements**”); and

(g) **Intangible Property.** All of the following items, to the extent assignable and without warranty: consents, licenses, approvals, certificates, permits, development rights, warranties, guarantees and floor plans, plans and specifications relating to the Improvements (including but not limited to the plans and specifications, and construction, design or engineering documents for any proposed improvements to any of the Tracts) and the Fixtures and Personal Property (and non-proprietary and non-confidential records owned by Seller and used solely in connection with the operation of the Land and Improvements, as well as all of the names of all of the Buildings (collectively, “**Intangible Property**”).

**1.2 No Representations.** Except for Seller’s representations set forth in **Article XIII** or in the Closing Documents (as hereinafter defined in **Section 4.1(b)**), Seller makes no express or implied representation or warranty with respect to the Property, and to the extent permitted by law, excludes and disclaims any statutory or other representations or warranties.

**1.3 No Reliance.** Purchaser agrees that except for Seller’s representations set forth in **Article XIII** or in the Closing Documents, Purchaser is not relying on and has not relied on any statements, promises, information or representations made or furnished by Seller or by any real estate broker, agent or any other person representing or purporting to represent Seller but rather is relying solely on its own expertise and on the expertise of its consultants and on the inspections and investigations Purchaser and its consultants has or will conduct.

**1.4 Acceptance of Deeds and Ground Leases.** Purchaser hereby acknowledges and agrees that the acceptance of the Deeds (as hereinafter defined in **Section 4.1(b)(i)**) and

acceptance of the assignment of Ground Leases by Purchaser shall be deemed to be full performance and discharge of every agreement and obligation on the part of Seller to be performed under this Agreement except those, if any, which are herein specifically stated to survive delivery of the Deeds and assignment of the Ground Leases. No agreement or representation or warranty made in this Agreement by Seller will survive the Closing and the delivery of the Deeds and assignment of Ground Leases, unless expressly provided otherwise herein.

**1.5 “AS IS”.** EXCEPT AS SPECIFICALLY SET FORTH TO THE CONTRARY IN THIS AGREEMENT OR IN THE CLOSING DOCUMENTS, PURCHASER AGREES (A) TO TAKE THE PROPERTY “AS IS, WHERE IS, WITH ALL FAULTS” AND (B) THAT NO REPRESENTATIONS OR WARRANTIES ARE MADE OR RESPONSIBILITIES ASSUMED BY SELLER AS TO THE CONDITION OF THE PROPERTY, AS TO THE TERMS OF ANY LEASES OR OTHER DOCUMENTS OR AS TO ANY INCOME, EXPENSE, OPERATION OR ANY OTHER MATTER OR THING AFFECTING OR RELATING TO THE PROPERTY, NOW OR ON THE CLOSING DATE. EXCEPT AS SPECIFICALLY SET FORTH HEREIN AND IN THE CLOSING DOCUMENTS, AND SUBJECT TO AND WITHOUT LIMITING PURCHASER’S RIGHTS UNDER **ARTICLE IX**, PURCHASER AGREES TO ACCEPT THE PROPERTY IN THE CONDITION EXISTING ON THE CLOSING DATE, SUBJECT TO ALL FAULTS OF EVERY KIND AND NATURE WHATSOEVER WHETHER LATENT OR PATENT AND WHETHER NOW OR HEREAFTER EXISTING.

PURCHASER ACKNOWLEDGES THAT AS OF THE CLOSING DATE, PURCHASER WILL HAVE INSPECTED THE PROPERTY AND OBSERVED ITS PHYSICAL CHARACTERISTICS AND CONDITIONS AND WILL HAVE HAD THE OPPORTUNITY TO CONDUCT SUCH INVESTIGATIONS AND STUDIES ON OR OVER THE PROPERTY AND ADJACENT AREAS AS IT DEEMS NECESSARY AND, EXCEPT FOR THE EXCEPTED CLAIMS (AS HEREINAFTER DEFINED IN **SECTION 1.6(a)**), HEREBY WAIVES ANY AND ALL OBJECTIONS TO OR COMPLAINTS REGARDING THE PHYSICAL CHARACTERISTICS AND CONDITIONS OF THE PROPERTY AND ITS CONDITION, INCLUDING, BUT NOT LIMITED TO, FEDERAL, STATE OR COMMON LAW-BASED ACTIONS AND ANY PRIVATE RIGHT OF ACTION UNDER STATE AND FEDERAL LAW TO WHICH THE PROPERTY IS OR MAY BE SUBJECT, INCLUDING, BUT NOT LIMITED TO, CLAIMS RELATING TO CERCLA, RCRA, PHYSICAL CHARACTERISTICS AND EXISTING CONDITIONS, INCLUDING STRUCTURAL AND GEOLOGICAL CONDITIONS, SUBSURFACE SOIL AND WATER CONDITIONS, AND SOLID AND HAZARDOUS WASTE AND HAZARDOUS MATERIALS ON, UNDER, ADJACENT TO OR OTHERWISE AFFECTING THE PROPERTY. PURCHASER FURTHER ASSUMES THE RISK OF CHANGES IN APPLICABLE LAWS AND REGULATIONS RELATING TO PAST, PRESENT AND FUTURE ENVIRONMENTAL CONDITIONS ON THE PROPERTY AND THE RISK THAT ADVERSE PHYSICAL CHARACTERISTICS AND CONDITIONS, INCLUDING THE PRESENCE OF HAZARDOUS MATERIALS OR OTHER CONTAMINANTS, MAY NOT HAVE BEEN REVEALED BY ITS INVESTIGATION.

**1.6 Seller Release from Liability.** Except with respect to the Seller's Representations or as otherwise expressly provided in this Agreement or in the Closing Documents, Purchaser hereby fully and forever waives, and Seller hereby fully and forever disclaims and shall not be liable or bound in any manner by, any and all warranties, guarantees, promises, statements, representations or information of whatever type or kind with respect to the Property, whether express, implied or otherwise, including warranties of fitness for a particular purpose, habitability or use. Purchaser agrees that:

(a) Except for (i) any Claims (as hereinafter defined) arising out of a breach or default by Seller under this Agreement (including a breach of any of Seller's representations and warranties in **Article XIII**) or the Closing Documents, and (ii) any Claims alleging that a default or breach by Seller occurred prior to the Closing (during Seller's respective periods of ownership) under the Leases and/or Ground Leases that results in damages to Purchaser or its Affiliates that were actually incurred prior to the Closing, in each case, subject to **Section 15.15** and **Section 15.21** and of which Purchaser had no knowledge prior to Closing (collectively, "**Excepted Claims**"), Purchaser and anyone claiming by, through or under Purchaser hereby waives its right to recover from and fully and irrevocably releases Seller and Seller's employees, officers, directors, trustees, shareholders, members, partners, representatives, agents, servants, attorneys, Affiliates (as hereinafter defined in **Article VII**), parents, subsidiaries, successors and assigns, and all persons, firms, corporations and organizations in its behalf ("**Released Parties**") from any and all claims, responsibility and/or liability that it may now have or hereafter acquire against any of the Released Parties for any and all costs, losses, claims, liabilities, damages, expenses, demands, debts, controversies, claims, actions or causes of actions (collectively, "**Claims**") arising from or related to the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise, and the presence in the soil, air, structures and surface and subsurface waters of materials or substances that have been or may in the future be deemed to be hazardous materials or otherwise toxic, hazardous, undesirable or subject to regulation and that may need to be specifically treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines or common law), valuation, salability or utility of the Property, condition of title to the Property, compliance with any applicable federal, state or local law, rule or regulations or common law with respect to the Property, or the Property's suitability for any purposes whatsoever, and any information furnished by the Released Parties in connection with this Agreement.

(b) Except with respect to the Excepted Claims, Purchaser agrees that under no circumstances will it make any claim against, bring any action, cause of action or proceeding against, or assert any liability upon, Seller, its agents, consultants, contractors, or any other persons who prepared or furnished any of the Property Documents (as hereinafter defined in **Section 6.1**) (such parties, collectively, the "**Property Documents Preparers**") as a result of the inaccuracy, unreliability or insufficiency of, or any defect or mistake in, any of the Property Documents (including the negligence of any Property Documents Preparer in connection with the preparation or furnishing of any of the Property Documents), and, except for the Excepted Claims, Purchaser hereby fully and forever releases, acquits and discharges Seller and each Property Documents Preparer of and from any such claims, actions, causes of action, proceedings or liability, whether known or unknown. This release expressly includes claims of

which Purchaser is presently unaware or which Purchaser does not presently suspect to exist which, if known by Purchaser, would materially affect Purchaser's release of Seller.

(c) To the extent permitted by law, Purchaser hereby agrees, represents and warrants that Purchaser realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to Claims which are presently unknown, unanticipated and unsuspected, and Purchaser further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of such realization, and that Purchaser nevertheless hereby intends to release, discharge and acquit the Released Parties from any and all Claims, except for Excepted Claims.

(d) Notwithstanding the foregoing releases of the Released Parties, Purchaser reserves the right to assert as a defense in response to any tort claim that Purchaser did not own the Property at the time of the alleged injury; provided, however, Purchaser shall not have a right to implead Seller or any of the Released Parties in any such action.

**1.7 Purchaser's Waiver of Objections.** Notwithstanding anything to the contrary herein, Purchaser and Seller acknowledge that any written disclosures or discovery made by Purchaser prior to the Closing shall constitute notice to Purchaser of the matter disclosed or discovered, and Seller shall have no further liability if Purchaser thereafter consummates the transaction contemplated hereby.

**1.8 Survival.** Seller and Purchaser have agreed upon the Purchase Price relating to the Property and other provisions of this Agreement in contemplation and consideration of Purchaser's agreeing to the provisions of **Sections 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7**, which Sections shall survive the Closing indefinitely and the delivery of the Deed and/or termination of this Agreement and shall not be deemed merged into the Deed or other Closing Documents.

**1.9 Sale of Mezzanine Loan.** In addition to the sale of the Property, Seller and Purchaser have agreed upon the sale of the Mezzanine Loan (as defined in **Section 4.4(g)**) pursuant to **Section 4.4(g)** below.

## ARTICLE II

### PURCHASE PRICE

**2.1 Purchase Price.** The purchase price to be paid for the Property and the Mezzanine Loan is SIX HUNDRED FORTY-FIVE MILLION, FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$645,500,000.00) (the "**Purchase Price**"), and shall be paid as follows:

(a) **Assumption of Existing Debt:** Assumption by Purchaser at Closing of all or any portion of the Existing Debt (as defined and determined pursuant to **Section 4.4** hereof), and

(b) **Cash Portion of Purchase Price:** The difference between the Purchase Price and the amount of the unpaid principal balance of the Existing Debt assumed at Closing, to

be paid in cash, plus or minus proration adjustments as described herein by wire transfer of federal funds to an account designated by Seller in writing by notice to Purchaser (unless the Closing is conducted through escrow with the Escrow Agent (as hereinafter defined in **Section 3.1**), in which case the funds shall be wire transferred to Escrow Agent) (such amount, as adjusted as provided herein, being referred to herein as the “**Cash Portion of the Purchase Price**”).

The Cash Portion of the Purchase Price will have been deposited by Purchaser with Escrow Agent (as hereinafter defined in **Section 3.1**) no later than the time of Closing by wire transfer of immediately available federal funds. No portion of the Purchase Price shall be allocated, nor attributable, to items of personal property. The Purchase Price must be received by Seller by 2:00 P.M. (Atlanta, Georgia local time) on a particular day in order for the Closing to be deemed to have taken place as of such date.

### ARTICLE III

#### DEPOSIT AND OPENING OF ESCROW

**3.1 Deposit.** Within one (1) business day following the Effective Date and as a condition precedent to this Agreement becoming a binding agreement between the parties, Purchaser will deposit FORTY-FIVE MILLION AND 00/100 DOLLARS (\$45,000,000.00) (the “**Initial Deposit**”, together with the Extension Deposits (as hereinafter defined in **Section 5.1**) collectively, the “**Deposit**”) with Chicago Title Insurance Company, c/o Republic Commercial Title Company, 6111 Peachtree Dunwoody Road, Building D, Atlanta, Georgia 30328, Attention: Andrew Weiss (“**Escrow Agent**”) by wire transfer of immediately available federal funds and will provide Escrow Agent with a fully completed form W-9 which provides Purchaser’s tax identification number. If Purchaser fails to deposit the Deposit within the time period provided for above, Seller may at any time following the due date therefor and prior to Escrow Agent’s receipt of such Deposit, terminate this Agreement, in which case this Agreement shall be null and void ab initio and in such event Escrow Agent will immediately deliver to Seller all copies of this Agreement in its possession and thereafter neither party shall have any further rights or obligations to the other hereunder, except as otherwise set forth in this Agreement. The Deposit shall be non-refundable to Purchaser except as otherwise expressly set forth in this Agreement.

**3.2 Interest Bearing.** The Deposit shall be held in an interest-bearing escrow account by Escrow Agent in an institution as directed by Seller and reasonably acceptable to Purchaser. All interest and income on the Deposit will be remitted to the party entitled to the Deposit pursuant to this Agreement.

**3.3 Application.** If Closing occurs, the Deposit will be credited against the Purchase Price at Closing. If the Closing does not occur in accordance with the terms hereof, the Deposit shall be delivered to the party entitled to the Deposit, as provided in this Agreement. In all events, the Deposit shall be held in escrow by Escrow Agent, in trust in accordance with the provisions of **Article XIV**.

**3.4 Independent Consideration.** Contemporaneously with the execution and delivery of this Agreement, Purchaser has paid to Seller as further consideration for this Agreement, in cash, the sum of ONE HUNDRED DOLLARS AND 00/100 (\$100.00) (the “**Independent Consideration**”), in addition to the Deposit and the Purchase Price. The Independent Consideration is independent of any other consideration provided hereunder, shall be fully earned by Seller upon the Effective Date hereof, and is not refundable under any circumstances.

#### ARTICLE IV

#### CONDITIONS TO CLOSING

**4.1 Conditions to Purchaser’s Obligation to Purchase.** Purchaser’s obligation to purchase the Property is expressly conditioned upon satisfaction of those conditions set forth below. In the event any of the conditions set forth below are not satisfied at Closing, Purchaser may (i) waive such failed condition and close this transaction as contemplated hereby, or (ii) terminate this Agreement by written notice to Seller on the Closing Date, in which event, the Deposit shall be promptly returned to Purchaser and neither party shall have any obligation to the other hereunder, except for those obligations of Seller or Purchaser which, by their terms, expressly survive Closing. Notwithstanding the foregoing, if any of the conditions to Closing for Purchaser under this **Section 4.1** or any of the conditions to Closing for Seller under **Section 4.2** are not satisfied as a result of a default by Purchaser or Seller, then their respective rights, remedies and obligations shall be governed in accordance with **Article XII**.

(a) **Performance by Seller.** Seller’s performance in all material respects of the obligations, covenants and deliveries required of Seller under this Agreement.

(b) **Seller’s Deliveries.** Seller’s delivery at Closing of the following, all documents to be executed originals and, if applicable, witnessed and properly acknowledged (the **Closing Documents**):

(i) Limited or special warranty deeds (as applicable in each jurisdiction) from each entity constituting Seller as to the portion of the Property each such entity owns in the form attached hereto as **Exhibit D** (with respect to the Land located in Georgia) and **Exhibit D-1** (with respect to the Land located in North Carolina), subject to the following matters (collectively, the “**Deed**”):

(A) Non-delinquent real property taxes, water and sewer charges and all assessments (governmental and private) and unpaid installments thereof which are not yet due and payable, subject to the provisions of **Section 11.2** below;

(B) Any matter (including any lien, encumbrance or easement) voluntarily imposed or consented to in writing by Purchaser prior to or as of the Closing;

(C) Laws and governmental regulations, including all building codes, zoning regulations and ordinances, that affect the use, operation and maintenance of the Property, and any violations thereof;

(D) Such state of facts as may be shown on an accurate and current survey or by inspection of the Property;

(E) Variations between locations of fences, retaining walls, guy poles, hedges, treelines and shrubs;

(F) Rights of tenants, as tenants only, of the Land and Improvements under the terms and conditions of all Leases with Purchaser hereby acknowledging that Purchaser has examined such Leases; and

(G) the Permitted Exceptions, as defined in **Section 8.1**.

(ii) An Assignment and Assumption of Ground Leases (with respect to the 150 Fayetteville Tract) in the form attached hereto as **Exhibit E** (the “**Assignment of Ground Leases**”);

(iii) The Assignment and Assumption Agreement in the form attached as **Exhibit F** (the “**Assignment and Assumption Agreement**”);

(iv) The Leases, together with any letters of credit held as security deposits under any of the Leases and all instruments reasonably required to transfer such letters of credit to Purchaser;

(v) The Certification in the form attached hereto as **Exhibit G** that Seller is not a “foreign person”;

(vi) An Assistant Secretary’s Certificate evidencing the authority of individuals to execute any instruments executed and delivered by Seller at Closing, together with a certificate of good standing of Seller;

(vii) The Bill of Sale in the form attached hereto as **Exhibit H**;

(viii) A closing statement in form and content satisfactory to Seller and Purchaser (the “**Closing Statement**”) signed by Seller;

(ix) All keys and lock combinations for the Property and all leasing and other files relating to the Property and all other licenses, certificates, permits, plans, books, records and reports and other materials that comprise the Intangible Property, to the extent such items are in Seller’s actual possession or control;

(x) At least three (3) business days prior to closing Seller must have delivered to Purchaser original tenant estoppel certificates executed by tenants under existing Leases from the following tenants of the Improvements: (1) Albemarle, (2)



CapFinancial, (3) Smith Anderson, (4) Wells Fargo (f/k/a Wachovia Bank, N.A.), (5) AgData, (6) Dixon Hughes Goodman, (7) US Attorney's Office, (8) Garretson, (9) Discovery Education, and (10) J.P. Morgan (collectively, the "**Major Tenants**") and from a sufficient number of other tenants of the Improvements (the "**Minor Tenants**") so that estoppel certificates are received from tenants leasing no less than seventy percent (70%) of the aggregate area leased in the Improvements, exclusive of any parking leases (the "**Required Tenant Estoppel Certificates**"). Each Required Tenant Estoppel Certificate (1) will be on the form attached to the applicable Lease, if any, or if there is no form attached to the Lease, then will be substantially on the form attached hereto as **Exhibit I** (provided, however, if any Lease limits the provisions to be included in any estoppel certificate, the form shall be modified accordingly); and (2) will not have been modified in any substantive, adverse manner. The addition of a knowledge qualification or other non-material change to an estoppel certificate will not cause such tenant estoppel certificate to fail to satisfy the requirements for an acceptable Required Tenant Estoppel Certificate. Seller, at its sole option, may elect to satisfy part of the requirements under this **Section 4.1(b)(x)** by delivery of a Seller estoppel certificate in the form attached hereto as **Exhibit N** (a "**Seller Estoppel Certificate**") for up to ten percent (10%) of the leased square footage of the Improvement leased by Minor Tenants whose Required Tenant Estoppel Certificates have not been received by Closing. Any Seller Estoppel Certificate delivered by Seller to Purchaser shall be subject to all terms and conditions of **Sections 15.15** and **15.21** of this Agreement. If Seller or Purchaser subsequently obtains a Required Tenant Estoppel Certificate meeting the requirements of this **Section 4.1(b)(x)** hereof, from a tenant for which Seller has delivered a Seller Estoppel Certificate, the delivered Seller Estoppel Certificate will be null and void, and Purchaser will accept the Required Tenant Estoppel Certificate in its place. In the event Seller fails, for any reason, to deliver to the Purchaser the required number of Required Tenant Estoppel Certificates in accordance with the provisions of this **Section 4.1(b)(x)** prior to the Closing, then Seller will not be deemed in default hereunder, and Purchaser's sole remedy will be to terminate this Agreement, whereupon the Title Company will return the Deposit to Purchaser, and both parties will be relieved of any further obligations hereunder, except for the obligations hereunder which expressly survive Closing or other termination of this Agreement. Seller will deliver to Purchaser a draft of each Required Tenant Estoppel Certificate for Purchaser's review and approval prior to Seller's delivery thereof to the tenants. Seller agrees to request a Tenant Estoppel Certificate from each of the tenants under the Leases and to diligently pursue the execution and delivery thereof, provided, Seller shall not be required to pay any money or sue any tenant to procure a Required Tenant Estoppel Certificate. If Seller has not delivered the Required Tenant Estoppel Certificates prior to Closing, Seller may, at Seller's option, elect to: (i) adjourn the Closing for a period not to exceed fifteen (15) business days to allow Seller to continue its efforts to obtain the Required Tenant Estoppel Certificates to satisfy. In the event after adjourning the Closing as set forth above, Seller fails to provide a sufficient number of Required Tenant Estoppel Certificates, Purchaser's sole remedy shall be to either (Y) waive the Estoppel Requirement and proceed to Closing without any abatement in the Purchase Price, or (Z) terminate this Agreement and receive a refund of the Deposit.

(xi) a ground lease estoppel shall be delivered to the ground lessor of each Ground Lease in the form attached hereto as **Exhibit N-1** and incorporated herein by reference (the “**Ground Lease Estoppel**”), and the executed Ground Lease Estoppel for the Parking Ground Lease must be delivered to Purchaser prior to Closing. Seller shall use commercially reasonable efforts to obtain such Ground Lease Estoppels; provided, notwithstanding the foregoing, (x) Seller shall not be required to pay any money or enforce any contractual rights to procure any Ground Lease Estoppel, and (y) the receipt of a Ground Lease Estoppel for the Green Ground Lease shall not be a condition to Closing. Seller shall also deliver to each of the ground lessors a consent to assignment for each Ground Lease contained in the Ground Lease Estoppel; provided, for the avoidance of doubt, the receipt of any such consent for an assignment of a Ground Lease shall not be a condition to Closing;

(xii) A Tenant Notice Letter in the form attached hereto as **Exhibit M** executed by Seller to be mailed out by Purchaser upon Closing;

(xiii) An assignment and assumption of the Mezzanine Loan Documents (as hereinafter defined in **Section 4.4(g)**), in the form attached to this Agreement as **Exhibit J** (the “**Assignment of Mezzanine Loan**”);

(xiv) An assignment and assumption of the Option Agreement (as hereinafter defined in **Section 4.4(g)**), in the form attached to this Agreement as **Exhibit R** (the “**Assignment of Option Agreement**”);

(xv) A right of first offer for the benefit of Seller and its Affiliates with respect to certain matters related to the Galleria 75 Tract, in the form attached to this Agreement as **Exhibit S** (the “**Galleria 75 ROFO**”);

(xvi) Such documents of Seller which authorize the sale of the Property to Purchaser and other documents as all are reasonably required by the Title Company and reasonably approved by Seller;

(xvii) A lien waiver executed by the Broker on a customary form, in a form acceptable to the Title Company;

(xviii) An owner’s affidavit in the form attached hereto as **Exhibit T** in order to cause the Title Company to issue to Purchaser an owner’s title insurance policy or policies in the form and condition required by this Agreement (but all such affidavits, certificates or other documents must be reasonably acceptable to Seller);

(xix) A certificate or affidavit as is required under applicable provisions of Georgia law to assure Purchaser and Title Company that Georgia withholding tax is not required; and

(xx) Such additional assignments, instruments and documents, including title affidavits, certificates or other documents customarily required by the Title

Company as defined in Section 8.1 hereof on Seller's and Title Company's customary forms, appropriate to be executed and delivered by Seller as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Agreement provided the same are commercially reasonable and do not require disclosure of proprietary information.

(c) **Seller's Representations and Warranties**. The representations and warranties of Seller set forth in **Section 13.1** being true and correct in all material respects as of the Closing.

(d) **No MAE on Assumption of Existing Debt**. An Existing Debt Assumption and Release shall be executed and delivered by the applicable Existing Debt lender and delivered at Closing, which such Existing Debt Assumption and Release shall not impose any new or different economic requirement or financing term on Purchaser as the new borrower at variance with those imposed by the Existing Debt documents binding as of the date hereof on Seller as the existing borrower, which has a material adverse effect on Purchaser in the aggregate in the context of the transactions under this Agreement (excluding any (y) new terms required by Purchaser's 1031 exchange or reverse 1031 exchange and (z) any adjustments to the amounts of the reserves required by the applicable Existing Debt lender using commercially reasonable lending standards) (the "**Debt MAE Condition**").

**4.2 Conditions to Seller's Obligation to Sell**. Seller's obligation to sell the Property is expressly conditioned upon satisfaction of those conditions set forth below. In the event any of the conditions set forth below are not satisfied at Closing, Seller may (i) waive such failed condition and close this transaction as contemplated hereby, or (ii) terminate this Agreement by written notice to Purchaser on the Closing Date, in which event, the Deposit shall be promptly returned to Purchaser and neither party shall have any obligation to the other hereunder, except for those obligations of Seller or Purchaser which, by their terms, expressly survive Closing. Notwithstanding the foregoing, if any of the conditions to Closing for Seller under this **Section 4.2** or any of the conditions to Closing for Purchaser under **Section 4.1** are not satisfied as a result of a default by Purchaser or Seller, then their respective rights, remedies and obligations shall be governed in accordance with **Article XII**.

(a) **Performance by Purchaser**. Purchaser's performance in all material respects of the obligations, covenants, and deliveries required of Purchaser under this Agreement.

(b) **Receipt of Purchase Price**. Receipt by Seller (or as Seller may direct) of the Purchase Price in the manner provided in this Agreement.

(c) **Purchaser's Deliveries**. Delivery at Closing of the following, all documents to be executed originals and, if applicable, witnessed and properly acknowledged:

- (i) The Assignment and Assumption Agreement;

- (ii) The Closing Statement (signed by Purchaser), with a copy thereof to be delivered to Seller;
- (iii) A Tenant Notice Letter in the form attached hereto as **Exhibit M** executed by Purchaser;
- (iv) The certificate of any permitted assignee required under **Section 15.7**;
- (v) Evidence of the authority and the incumbency of any individuals to execute any instruments executed and delivered by Purchaser at Closing, together with a certificate of good standing of Purchaser;
- (vi) All Existing Debt Fees and all documents, instruments, guaranties and other items or funds required by each Existing Debt lender to cause the Existing Debt Assumption and Release;
- (vii) The Assignment of Mezzanine Loan;
- (viii) The Assignment of Option Agreement;
- (ix) The Galleria 75 ROFO;
- (x) Such documents of Purchaser which authorize the purchase of the Property from Seller and other documents as all are reasonably required by the Title Company; and
- (xi) Such additional documents and instruments appropriate to be executed and delivered by Purchaser as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Agreement, provided the same are commercially reasonable and do not require disclosure of proprietary information.

(d) **Purchaser's Representations and Warranties**. The representations and warranties of Purchaser set forth in **Section 13.3** being true and correct in all material respects as of Closing.

**4.3 No Financing Contingency**. Subject to **Section 4.4**, it is expressly understood and acknowledged by Purchaser that this Agreement and Purchaser's obligations hereunder are not contingent or conditioned upon obtaining a commitment for or closing any financing and the failure of Purchaser to obtain or close any financing for any reason whatsoever, shall not be a failure of condition to Purchaser's performance hereunder. In addition, Seller will have no obligation to or privity with any lender to Purchaser.

#### **4.4 Existing Debt Assumptions; Assignment of Mezzanine Loan.**

(a) Purchaser shall assume the indebtedness listed on **Exhibit L** (the “**Existing Debt**”) at Closing and cause each Existing Debt lender to release Seller and all Existing Debt guarantors and indemnitors who are affiliated with Seller from all liability under the Existing Debt documents (collectively, the “**Existing Debt Assumption and Release**”).

(b) Purchaser acknowledges that it has reviewed the provisions of Existing Debt relating to the assumptions of the Existing Debt and agrees to use diligent and commercially reasonable efforts to promptly satisfy all conditions that each of the Existing Debt lenders, any servicer and/or the rating agencies may require in order to cause the Existing Debt Assumption and Release. Without limiting the foregoing, Purchaser hereby agrees (i) to cooperate with all reasonable requests made by or on behalf of each of the Existing Debt lenders, any servicer and/or any rating agencies for information regarding Purchaser and its Affiliates as potential new guarantors or indemnitors of the Existing Debt (including providing all financial statements, organizational documents, background information regarding Purchaser and its Affiliates and other information and documents requested by each of the Existing Debt lenders, any servicer and/or any rating agencies and/or required to be provided relating to the Existing Debt assumption, (ii) to not request or negotiate any amendments or modifications to the Existing Debt except for those provisions which are personal to the identity of the borrower and necessary to consummate the Existing Debt Assumption and Release, (iii) to execute and to cause its Affiliates to execute all documentation reasonably requested by the Existing Debt lenders, any servicer and/or the rating agencies and/or required to be executed relating to the Existing Debt assumption, (iv) to pay all fees and expenses relating to the Existing Debt assumption, (v) propose new guarantor(s) or indemnitor(s) (consisting of Purchaser’s general partner and/or its Affiliates acceptable to the Existing Debt lenders and the rating agencies, to enter into replacement guaranties and indemnities in accordance with the Existing Debt documents and (vi) to otherwise cause all other Existing Debt Assumption and Release requirements to be satisfied. Seller agrees to reasonably cooperate with Purchaser (provided that Seller shall have no obligation to incur any liability or expense other than the fees of its own attorneys) to seek and obtain the Existing Debt Assumption and Release.

(c) Without limiting Purchaser’s obligations under **Section 4.4(b)**, Purchaser shall, at its sole cost and expense and within fifteen (15) business days following the Effective Date (the “**Existing Debt Application Submittal Deadline**”) submit to the Existing Debt lenders, with a copy to Seller, complete applications required by each of the Existing Debt lenders to obtain the Existing Debt Assumption and Release, together with all documents and information (exclusive of confidential and proprietary information) required in connection therewith (collectively, the “**Existing Debt Assumption Application**”). As part of the Existing Debt Assumption Application, Purchaser shall prepare and deliver to each Existing Debt lender (with a copy to Seller) on or before the Existing Debt Application Submittal Deadline a written notice setting forth the terms of the transfer of the Property to Purchaser pursuant to this Agreement (the “**Existing Debt Assumption Notice**”), together with (x) all such information concerning the transfer, Purchaser and the new guarantor or indemnitor as each of the Existing Debt lenders shall require in evaluating an initial extension of credit, which information shall

include a fully executed copy of this Agreement and all amendments and assignments thereto, as well as the sources and uses of funds or closing or settlement statement relating to the transfer to the extent available to Purchaser and (y) a payment of a non-refundable processing fee, if any, as required by each of the Existing Debt lenders. Upon the Existing Debt Lender's receipt of (i) the Existing Debt Assumption Application (including the Existing Debt Assumption Notice) and all information submitted therewith in accordance with this Section and (ii) the applicable processing fees, Purchaser shall submit same to Seller. Purchaser acknowledges and agrees that Purchaser is solely responsible for the preparation of the Existing Debt Assumption Application (including the Existing Debt Assumption Notice), the collection of all materials, documents, certificates, financial statements, signatures, and other items required to be submitted in connection with the Existing Debt Assumption Application.

(d) Purchaser shall (and shall cause any new guarantor or indemnitor to) use its diligent and commercially reasonable efforts to promptly satisfy and comply with the Existing Debt Assumption and Release requirements and any and all other assumption guidelines of an Existing Debt lender in connection with the Existing Debt Assumption and Release. Purchaser shall be responsible, at its sole cost and expense, for correcting and re-submitting any deficiencies noted by Seller, any of the Existing Debt lenders or servicer in connection with the Existing Debt Assumption Application (including the Existing Debt Assumption Notice) no later than three (3) days after notification from such Existing Debt lender or servicer of such deficiency. Purchaser shall provide Seller with a copy of any correspondence from any of the Existing Debt lender or servicer with respect to the Existing Debt Assumption Application and/or the Existing Debt Assumption and Release no later than three (3) days after receipt of such correspondence from such Existing Debt lender or servicer. Purchaser agrees promptly to (and shall cause any new guarantor or indemnitor to promptly to) deliver to each of the Existing Debt lenders all documents and information required by the Existing Debt documents, and such other information or documentation as any of the Existing Debt lenders or servicer may reasonably request, including financial statements, income tax returns and other financial information for Purchaser and any new guarantor or indemnitor.

(e) Purchaser shall pay all fees, costs and expenses to be paid to or on behalf of each Existing Debt lender, any servicer and/or any rating agency(ies) and to their agents, attorneys or other representatives, in connection with seeking and obtaining the Existing Debt Assumption and Release, including all transfer, processing, application, servicing and/or assumption fees, additional reserves and escrows, title and UCC insurance fees, endorsement fees, rating agency fees, non-refundable deposits and reasonable legal fees and disbursements, including the payment of fees and expenses, but exclusive of legal fees incurred by Seller in connection with any legal advice received by Seller related to any loan assumption and release document required to be executed by Seller and/or its Affiliates in connection with the Existing Debt lenders' approval of the assignment to and assumption by Purchaser of the Existing Debt (collectively, "**Existing Debt Fees**") when due, whether before, at or after the Closing and whether or not the Closing occurs, imposed or charged by any of the Existing Debt lenders, servicer, the rating agencies and their respective counsel in connection with the Existing Debt Assumption Application and the Existing Debt Assumption and Release, and Seller shall have no obligation to pay any Existing Debt Fees.

(f) If the Existing Debt Assumption and Release occurs at Closing pursuant to this **Section 4.4(f)**, at Closing, Purchaser shall be responsible for (i) replacing (and increasing to the extent required by any of the Existing Debt lenders) all reserves, impounds and other accounts required to be maintained in connection with the Existing Debt, to the extent such existing reserves, impounds and other accounts are not assigned to Purchaser and (ii) funding any additional reserves, impounds or accounts reasonably required by the Existing Debt lenders in connection with the Existing Debt.

Except as provided in **Section 4.1(d)**, (i) neither obtaining the Existing Debt Assumption and Release approval, nor the occurrence of the Existing Debt Assumption and Release on the Closing Date, shall be a condition to Purchaser's obligation to consummate the transactions described herein, and (ii) Purchaser shall have no right to extend the Closing Date on account of Purchaser's failure to obtain the Existing Debt Assumption and Release approval or the failure of the Existing Debt Assumption and Release to occur on the Closing Date.

(g) In consideration of the mutual covenants and agreements set forth herein, and other consideration (the receipt and sufficiency of which are hereby acknowledged), (i) POP 8 West Mezzanine Lending, LLC ("**8 West**"), hereby agrees to assign to Purchaser, effective as of the Closing Date, all rights, title and interests of 8 West in, to and under or arising out that certain loan in the principal face amount of NINETEEN MILLION, ONE HUNDRED NINETY-TWO THOUSAND, FIVE HUNDRED NINETY-SEVEN AND 00/100 DOLLARS (\$19,192,597.00) (the "**Mezzanine Loan**"), which is evidenced, secured by and more particularly described in those documents set forth in **Exhibit J-1** attached hereto and made a part hereof (collectively, the "**Mezzanine Loan Documents**"), and (ii) POP, , an Affiliate of Seller hereby agrees to assign to Purchaser effective as of the Closing, all of POP's right, title and interest in, to and under or arising out of that certain Purchase Option Agreement with Right of First Offer, dated as of November 30, 2018, by and between 8West Holdings, LLC, and POP (the "**Option Agreement**"), that was entered into in connection with the Mezzanine Loan. Purchaser hereby agrees to accept the foregoing assignments and assume all rights and obligations of (x) 8 West arising after the Closing Date under the Mezzanine Loan Documents and otherwise relating to the Mezzanine Loan, and (y) POP arising after the Closing Date under the Option Agreement. Seller agrees to reasonably cooperate and deliver any notices or documents as required to comply with the terms of the Intercreditor Agreement identified on **Exhibit J-1**.

(h) The provisions of clauses **(d)**, **(e)**, **(f)** and this **(h)** of this **Section 4.4** shall survive the Closing or termination of this Agreement.

## **ARTICLE V**

### **THE CLOSING**

**5.1 Date and Manner of Closing.** The closing of the transaction contemplated by this Agreement (the "**Closing**") will occur through an escrow with Escrow Agent, no later than 2:00 P.M. Atlanta, Georgia local time on July 1, 2021 (the "**Closing Date**") or such earlier or later date as is agreed by the parties. Notwithstanding the foregoing, (i) Seller shall have the right

to extend the Closing Date for up to fifteen (15) business days in order to obtain the Required Tenant Estoppel Certificates by delivering written notice of such extension to Purchaser prior to the original Closing Date, and (ii) Purchaser shall have the right to extend the Closing Date for up to two (2) consecutive thirty (30) day periods (each, an “**Extension Option**”); provided, that in order for Purchaser to validly exercise each Extension Option, Purchaser must (x) provide written notice delivered to Seller no less than ten (10) business days prior to the then-scheduled Closing Date, and (y) deposit with the Escrow Agent FIVE MILLION AND 00/100 DOLLARS (\$5,000,000) (each, an “**Extension Deposit**” and collectively, the “**Extension Deposits**”) by wire transfer of immediately available federal funds.

**5.2 Closing.** On the day prior to the Closing Date, Purchaser and Seller shall execute a settlement statement generated by Escrow Agent. Subject to satisfaction of the conditions to Closing set forth in **Article IV** hereof, Escrow Agent will (i) not later than 2:00 P.M. Atlanta, Georgia local time on the Closing Date deliver the Purchase Price to Escrow Agent for the benefit of Seller in the form of a wire transfer of immediately available funds, and (ii) release for recordation the Deed and such other documents as may be recorded.

## **ARTICLE VI**

### **DUE DILIGENCE PERIOD EXPIRED; DEPOSIT NON-REFUNDABLE**

**6.1 Approval of Documents and Materials.** Purchaser acknowledges that Seller has made available to Purchaser the documents (i) which pertain to the Property, (ii) are located at the Property or are in any property manager’s office and (iii) are non-proprietary and not privileged, available at the Property for review and copying by Purchaser at Purchaser’s sole cost and expense (the “**Property Documents**”), in each case, in accordance with the Site Access and Indemnification Agreement (as defined in **Article VII** hereof). The Property Documents include, but have not been limited to:

- (a) Copies of the Leases and all amendments;
- (b) Copies of the Service Agreements;
- (c) Income and expense information for the period commencing January 1, 2018 through December 31, 2020 pertaining to the operation of the Property;
- (d) A current rent roll for the Property; and
- (e) A copy of title information and the surveys.

**6.2 Reliability of Information.** The Property Documents and other information provided by Seller and/or its agents to Purchaser under the terms of this Agreement and under the Site Access and Indemnification Agreement are for informational purposes only. Subject to Seller’s Representations (as hereinafter defined in **Section 13.1**), Purchaser (a) is not in any way entitled to rely upon the accuracy or completeness of the information within the Property Documents and other information provided by Seller and/or its agents and (b) Purchaser will rely



exclusively on its own inspections and consultants with respect to all matters Purchaser deems relevant to its decision to acquire the Property. The provisions of this **Section 6.2** shall survive the Closing and the delivery of the Deed.

**6.3 Due Diligence Period Expired.** Purchaser acknowledges that this Agreement does not provide a due diligence period, and that Purchaser has thoroughly reviewed and is satisfied in all respects with the Property Documents, other materials pertaining to the Property and is fully satisfied with all aspects of the Property for purchase under this Agreement including the results of all such studies, tests and inspections that Purchaser deems appropriate to analyze the feasibility of the acquisition and ownership of the Property and to determine, in Purchaser's sole and absolute discretion, that the Property is suitable for acquisition by Purchaser.

**6.4 Deposit Non-Refundable to Purchaser.** Purchaser has approved acquisition of the Property and to have waived any right to terminate this Agreement as a result of any due diligence inspections of the Property, except as may be otherwise specifically provided for in this Agreement. The Deposit is non-refundable to Purchaser except as otherwise expressly set forth in this Agreement.

## **ARTICLE VII**

### **INSPECTIONS**

Either Purchaser or one of its designated Affiliates (as hereinafter defined) has previously executed and delivered a separate site access and indemnification agreement to Seller, a copy of which is attached hereto as **Exhibit K** (the "**Site Access and Indemnification Agreement**"). The terms of such Site Access and Indemnification Agreement are hereby extended through the Closing or other termination of this Agreement. As used herein, "**Affiliate**" means, with respect to a person, any other person controlling, controlled by or under common control with such person.

## **ARTICLE VIII**

### **TITLE AND SURVEY; REA**

**8.1 Approval of Title Documents and Survey.** Purchaser has approved the status of title to the Property after obtaining commitments for title insurance ("**Title Commitments**") for the Land and the Leasehold Parcels from Chicago Title Insurance Company (the "**Title Company**") and any recertification of the surveys delivered by Seller to Purchaser (the "**Current Surveys**") or new surveys that Purchaser has elected to obtain with respect to the Land and the Leasehold Parcels (the "**New Surveys**"). All of the matters disclosed on the Title Commitments and New Surveys, together with and all other matters otherwise affecting title to the Land and Leasehold Parcels will constitute the "**Permitted Exceptions**".

**8.2 Title Updates.** If any supplemental title report or update issued subsequent to the Effective Date contains exceptions other than those in the Title Commitments or New Surveys and which have a material adverse effect on the use, value or operation of the Property ("**New**

**Exceptions**”), Purchaser will be entitled to object to the New Exceptions by delivery of a notice of objections to Seller on or before the date that is five (5) days following Purchaser’s receipt of such supplement or update. If Purchaser fails to deliver to Seller a notice of objections on or before such date, Purchaser will be deemed to have waived any objection to the New Exceptions, and the New Exceptions will be included as Permitted Exceptions. Seller will have not less than ten (10) days from the receipt of Purchaser’s notice (and, if necessary, Seller may extend the Closing Date to provide for such ten (10) day period and for five (5) days following such period for Purchaser’s response), within which time Seller may, but is under no obligation to, remove the objectionable New Exceptions, provided, Seller will be required to remove prior to or at Closing all monetary liens constituting New Exceptions. If, within the ten (10) day period, Seller or Title Company does not (or does not agree to) remove the objectionable New Exceptions (provided Seller will remove all monetary liens), then Purchaser may terminate this Agreement upon notice to Seller no later than five (5) days following expiration of the (10) day cure period. If Purchaser terminates this Agreement, the Deposit will be promptly returned to Purchaser, and the parties shall be released from all further obligations under this Agreement (except those that expressly survive termination of this Agreement). If Purchaser fails to terminate this Agreement in the manner set forth above, the New Exceptions (except those Seller and/or Title Company has removed or agreed to remove) will be included as Permitted Exceptions.

**8.3 Encumbrances.** The Existing Debt is a Permitted Exception hereunder and may not be objected to. The existence of mortgages, liens, or other encumbrances not permitted hereby (and which are not relating to the Existing Debt) shall not be objections to title provided that properly executed instruments in recordable form necessary to satisfy the same are delivered to the Title Company at the Closing together with recording and/or filing fees (or an appropriate credit against the Purchase Price given for such fees), and Purchaser and Seller agree that such mortgages, liens or other encumbrances may be paid out of the cash consideration to be paid by Purchaser. Seller will be required to remove prior to or at Closing all monetary liens, including mechanics’ liens and material men’s liens (but only to the extent Seller would be liable for the payment of the underlying obligation as the contracting party), judgment liens and tax liens encumbering the property (exclusive of liens securing the Existing Debt), including those monetary liens constituting New Exceptions (collectively, “**Liens**”), (i) if such Liens were caused solely by the actions or omissions of Seller or any of its Affiliates, or (ii) with respect to all other Liens other than those described in the foregoing clause (i), up to a maximum amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) in the aggregate.

**8.4 Notice of Commencement.** Work performed or to be performed by a tenant under a Lease, or on behalf of a tenant or subtenant under a Lease, affecting the Property (in each case, as a result of the tenant contracting for such work) will not be Seller’s responsibility. Accordingly, neither notices of commencement of work to be performed by contractors or subcontractors engaged by such tenants or subtenants (but not Seller) nor any liens filed with respect to any such work performed will constitute New Exceptions, and the same, if any, shall constitute Permitted Exceptions. In addition, any ongoing work being performed by Seller shall not constitute New Exceptions and the costs and risks of such work shall be allocated between Purchaser and Seller in accordance with **Section 10.5** below.

**8.5 Seller's Failure to Remove.** Seller shall have the right to extend the Closing Date for up to thirty (30) days in order to remove any objectionable Exception or New Exception that Seller agreed in accordance with the terms of this Article to remove by delivering written notice of such extension to Purchaser prior to the original Closing Date. If Seller fails on or before Closing (as may be extended) to remove any objectionable Exception or New Exception that Seller agreed in accordance with the terms of this Article to remove, then Purchaser may elect either to close with no adjustment to the Purchase Price or exercise its remedies pursuant to **Section 12.2**.

## ARTICLE IX

### RISK OF LOSS

**9.1 Casualty.** If the Property is damaged or destroyed by fire or other casualty after the Effective Date and prior to the Closing then promptly after Seller becomes aware of the damage or destruction Seller will notify Purchaser thereof (the "**Damage Notice**"). If the cost of repair is less than two percent (2%) of the Purchase Price, repairs will, in Seller's reasonable estimation, take less than six (6) months to effectuate, and no Major Tenant has the right to terminate its Lease as a result of such "minor casualty" which has not been waived, Closing will proceed in accordance with the terms of this Agreement for the full Purchase Price, notwithstanding the damage or destruction; provided, however, that Seller will pay or assign to Purchaser at Closing all insurance proceeds, if any, resulting from such casualty damage and pay to Purchaser any deductible due under Seller's insurance policy(ies) less the costs of collection. If the cost of repair is equal to or greater than two percent (2%) of the Purchase Price, if a Major Tenant has the right to terminate its Lease as a result of such casualty which has not been waived, if repair will, in Seller's reasonable estimation, take six (6) months or longer to effectuate, or if any portion of the loss is uninsured and Seller does not elect to credit Purchaser for such uninsured portion, Seller or Purchaser may elect to terminate this Agreement by delivering written notice to the other party within ten (10) days after the date of the Damage Notice and determination of the repair amount (and Closing will be extended as needed to provide for such 10-day period), in which event the Deposit will be refunded. If neither party terminates this Agreement within the 10-day period, Closing will proceed in accordance with the terms of this Agreement for the full Purchase Price, notwithstanding the damage or destruction and Seller will pay or assign to Purchaser at Closing all insurance proceeds, if any, resulting from the casualty and credit to Purchaser any applicable deductible amounts under the insurance policies.

**9.2 Condemnation.** If, after the Effective Date and prior to the Closing, a condemnation or eminent domain proceeding ("**Taking**") is commenced against the Property, Seller will give Purchaser notice within ten (10) days after Seller receives notice that the proceeding has commenced.

(a) If the Taking is a Material Taking (as hereinafter defined), Purchaser may, by written notice to Seller ("**Taking Notice**") elect to terminate this Agreement, which Taking Notice shall be sent no later than thirty (30) days after receipt of Seller's notice, time being of the essence, or such sooner period of time if the Closing is less than thirty (30) days after receipt of

Seller's notice. For purposes of this Agreement, a "**Material Taking**" shall be a Taking which(i) has, or would have, the effect of reducing the value of the Property which has been acquired or threatened to be acquired by the powers of eminent domain by greater than two percent (2%) of the Purchase Price, (ii) is reasonably anticipated to materially and permanently prevent access to the condemned Tract, (iii) results in the condemned Tract materially violating or failing to comply with any laws, applicable zoning ordinances (including, without limitation, parking), after the condemned Tract has been restored to an operable condition after the completion of the condemnation and any work to be completed by the condemning authority as a result of such condemnation, or (iv) results in any Major Tenant having the right to terminate its applicable Lease as the result of the condemnation of such Tract, and such Tenant has not waived its rights with respect thereto;

(b) If the Taking is not a Material Taking or if it is a Material Taking and Purchaser does not give Seller a Taking Notice in accordance with **Section 9.2(a)**, Purchaser will complete the transaction contemplated hereby without abatement or reduction in the Purchase Price, and Seller shall assign to Purchaser all rights, if any, to receive the award payable as a result of such proceeding.

## **ARTICLE X**

### **OPERATION OF THE PROPERTY**

**10.1 Operations.** From the Effective Date through the Closing Date, Seller will continue to operate and maintain the Property consistent with its standards of operation and maintenance prevailing immediately prior to the Effective Date, Seller shall not be obligated, or have the authority, to make any commitment with respect to capital expenditures, except (i) as set forth in Section 10.3 below, (ii) as Landlord may be obligated to make under the terms of any Lease after a demand by a tenant therefor, and (iii) as may be required in emergency situations to prevent personal injury or property damage, and under no circumstances will Seller be in breach of its obligations under this Agreement for failing to authorize or commence any such capital expenditures.

**10.2 Tenant Defaults; Other Proceedings.** Seller will not institute any proceedings against a tenant without Purchaser's prior approval which approval shall not be unreasonably withheld, conditioned or delayed, except that Seller may institute a proceeding for delinquent rent without Purchaser's consent, provided it is brought within six (6) months of the Closing Date and does not seek eviction of tenant. Purchaser will be deemed to have approved commencement of proceedings if Purchaser fails to respond within three (3) business days after Purchaser receives written notice of Seller's intent to commence proceedings. Notwithstanding any of the foregoing to the contrary, Seller shall have the right to prosecute (with Purchaser's reasonable cooperation after Closing, at no expense or liability to Purchaser) and retain any recovery in connection with any tax appeals or contests with respect to taxes assessed against the Property for tax periods prior to Closing provided such recovery action will not result in a deferral of taxes or reassessment against the Property.

**10.3 New Services Agreements / New Leases / New Tract Improvements.** Seller will not, without first obtaining Purchaser's consent (not to be unreasonably withheld, conditioned or delayed) enter into new service agreements or amend existing Service Agreements ("**New Service Agreements**") unless the agreement is a New Service Agreement for usual and customary property management matters, which can be terminated at Closing. Furthermore, Seller will not (a) enter into new leases or amend existing Leases with respect to the Property ("**New Leases**"), or (b) commence any improvements on any Tract not already commenced as of the Effective Date (whether in connection with a New Lease or otherwise a "**New Tract Improvement**") if any one New Tract Improvement is reasonably expected to cost in excess of \$25,000, or all such New Tract Improvements are reasonably expected to cost in the aggregate more than \$100,000 without first obtaining Purchaser's consent (not to be unreasonably withheld, conditioned or delayed). Purchaser will be deemed to have consented to any proposed New Service Agreement, New Lease or New Tract Improvements unless Seller receives written notice from Purchaser, specifically setting forth the areas of objection within three (3) business days following receipt by Purchaser of the proposed New Service Agreement, New Lease or New Tract Improvements.

**10.4 Tenant Inducement Costs / Tract Improvements.** Upon Closing, Purchaser will assume all liability for, and shall thereafter pay (or reimburse Seller to the extent Seller has paid prior to Closing), all amounts (including (i) tenant concessions, tenant improvement costs, free rent and leasing commissions or fees collectively "**Tenant Inducement Costs**") and (ii) New Tract Improvement costs) either of which is due under or in connection with, any New Service Agreement, New Lease or any New Tract Improvement, provided, any New Service Agreements, New Leases or New Tract Improvement have been approved (or deemed approved) by Purchaser pursuant to **Section 10.3** above, and provided to the extent any portion of the term of a New Lease (for which (i) such tenant is paying full rent and (ii) Tenant Inducement Costs are due thereunder) occurs prior to the Closing Date, the amount of the Purchase Price will be reduced by a pro-rata share of such Tenant Inducement Costs based upon the percentage of such rent-paying term (exclusive of any renewal option) which occurs prior to the Closing Date compared to the portion of such rent-paying term (exclusive of any renewal option) which is scheduled to occur after the Closing Date. Seller shall be responsible for all Tenant Inducement Costs, and the costs of improvements to a Tract not constituting a New Tract Improvement (an "**Existing Tract Improvement**"), which are payable by the Seller (pursuant to the Leases or a contract for Existing Tract Improvements (without giving effect to any unexercised option, extension or similar right as of such date) after Closing as set forth in any Lease, or any contract for an Existing Tract Improvement in existence as March 17, 2021 which have not been approved by Purchaser, all of which are set forth on **Exhibit O** attached hereto, and Purchaser shall receive a credit at Closing for all unpaid Tenant Inducement Costs with respect to such Leases, except as otherwise provided in the last sentence of this **Section 10.4**. Purchaser shall be solely responsible for all Tenant Inducement Costs relating to Leases or New Leases (including, without limitation, any amendments or exercises of options to extend Leases by tenants thereunder after March 17, 2021) and New Tract Improvements (provided such New Leases and New Tract Improvements have been approved (or are deemed approved) by Purchaser pursuant to **Section 10.3**) executed or occurring after March 17, 2021). For the avoidance of doubt, Purchaser and Seller agree that the future tenant inducement costs due to tenants Public

Defenders (2023 for \$130,888) and USAO (2026 for \$442,440) shall be Purchaser's sole responsibility after Closing without any Purchase Price credit due from Seller.

**10.5 Current Construction Work.** Seller is currently in the process of completing certain building improvements and tenant improvements on the property (the "**Work**") pursuant to agreements (the "**Construction Contracts**") between Seller and certain contractors (individually a "**Contractor**" or collectively the "**Contractors**") who are performing the Work, each as described on **Exhibit P**. Purchaser acknowledges that a portion of the Work, and the costs thereof may be completed and expended prior to Closing. It is not expected that the Work will be complete by Closing. To the extent Seller is obligated to pay for the cost of such Work pursuant to **Section 10.4** above, Purchaser will receive a credit against the Purchase Price for the cost of Work which has not been paid for by Closing. To the extent Purchaser is obligated to pay for such Work pursuant to **Section 10.4** above, Seller will receive a credit at Closing for the cost of Work which Seller has paid as of Closing. Pursuant to an Assignment of the Contracts in the form set forth as **Exhibit P-1** and incorporated herein by reference the ("**Assignment of Construction Contract**"), Purchaser will assume the obligations of Seller existing under Construction Contracts subject to the Assignment of Construction Contracts as of the date of Closing.

## **ARTICLE XI**

### **CLOSING PRORATIONS AND ADJUSTMENTS; PAYMENT OF CLOSING COSTS**

**11.1 General.** Seller shall pay (i) all of Seller's legal fees, expenses Seller might incur in connection with its election to remove objections to title, and any apportionment to be made pursuant to this **Article XI**, (ii) the costs of curing all title objections for which Seller is responsible under this Agreement, and (iii) one-half of any escrow fees charged by the Escrow Agent. Purchaser shall pay (a) the Existing Debt Fees, (b) all applicable transfer taxes, documentary stamp taxes and similar charges relating to transfer of the Property, (c) the fees of any counsel representing Purchaser in connection with this transaction, (d) the fees for recording the Deed, (e) the premiums for any title insurance (including endorsements) requested by Purchaser or its lender, (f) the cost of Purchaser's inspections of the Property, (g) the cost of any New Surveys, including updates or revisions necessary to comply with the requirements of Purchaser or its lender, (h) any costs to finance its purchase of the Property, including, but not limited to, any intangibles tax on the mortgage, and (i) one-half of any escrow fees charged by the Escrow Agent. All other costs and expenses incident to this transaction and the closing thereof shall be paid by the party incurring same.

**11.2 Prorations.** All income and expenses in connection with the operation of the Property shall be apportioned, as of 11:59 p.m. (Eastern time) on the day prior to the Closing Date, (the "**Cut Off Time**") as if Purchaser were vested with title to the Property during the entire Closing Date, such that, except as otherwise expressly provided to the contrary in this Agreement, Seller shall have the benefit of income and the burden of expenses for the day preceding the Closing Date (including, without limitation, any deferred rent received after Closing which relates to a period prior Closing) and the Purchaser shall have the benefit of income and the burden of expenses for the Closing Date and thereafter (provided, however, that

in the event that any of the Leases or subleases, if any, covering all or part of the Property provide that the tenants or subtenants thereunder are responsible for direct payment of any of the expenses and the tenants or subtenants are current with respect to such direct payment obligations, such expenses shall not be apportioned as between Seller and Purchaser):

- (a) Property taxes (which for all purposes under this **Article XI**, shall include personal property taxes) as more particularly set forth below and in **Section 11.3(b)**;
- (b) Rents as and when collected including base rents, escalations, additional rent and percentage rent (“**Rents**”) as further described below;
- (c) Water, sewer, gas, electric, vault and fuel charges, if any;
- (d) Operating expenses for the Property including sums due or already paid pursuant to any Service Agreements;
- (e) Amounts paid pursuant to all transferable licenses and permits, on the basis of the fiscal year for which levied;
- (f) Assessments but only for the annual installment for the fiscal year in which the Closing occurs;
- (g) Purchaser shall receive a credit against the Purchase Price at Closing for the amount of the termination fee paid by the tenants listed on **Exhibit U** (including the amount of such termination payments) in connection with Lease modification or termination agreements executed by such tenants; and
- (h) Any other operating expenses or other items pertaining to the Property which are customarily prorated between a purchaser and a seller in comparable commercial transactions in the area in which the Property is located.

The provisions of this **Section 11.2** shall survive the Closing and the delivery of the Deed.

### **11.3 Rents.**

(a) Purchaser shall receive a credit to the Purchase Price for all prepaid Rents, if any, paid by any tenants. Rents under the Leases will be adjusted and prorated on an “if as and when collected” basis. If, on the Closing Date, there are any unpaid rents for the month of Closing or past due Rents owing by any tenant for any prior period (including, without limitation, any deferred rent scheduled to be received after Closing which relates to a period prior Closing), Rents collected by Purchaser after the Closing Date from such tenants will be applied first, to the month of the Closing; second, to amounts due Purchaser for periods following the month in which the Closing occurred; third, to amounts due Seller for the month prior to Closing; and fourth, to amounts due Seller for periods prior to the month before the Closing occurred. The party receiving such amount shall pay to the other party the portion to which it is entitled, within ten (10) days of its receipt of same.

(b) Supplementing subsection (a) above, additional or escalation rent based upon: (x) a percentage of sales or (y) tenant's share of real estate taxes, operating expenses, labor costs, costs of living indices or porter's wages (collectively, "**Overage Rent**") shall be adjusted and prorated on an if, as and when collected basis. The following shall apply to the extent Overage Rent is billed on the basis of Landlord's estimates or an annual budget, which is subject to subsequent reconciliation and readjustment with each such tenant at the end of the applicable year:

(i) At least five (5) business days prior to the Closing Date, Seller shall provide Purchaser with a reconciliation statement for calendar year 2021, with all necessary supporting documentation, as to the Overage Rent paid by the tenants for calendar year 2021. Such reconciliation statement shall be based on the actual calendar year 2021 property tax bills and operating expenses. With respect to Overage Rent for the 2021 calendar year, to the extent the reconciliations indicate a net amount owed to Seller, Purchaser shall give Seller a credit at Closing in the amount of such of net amount, and to the extent the reconciliations indicate a net amount owed to the tenants, Seller shall give Purchaser a credit in the amount of such net amount. In either case, from and after the Closing, Purchaser shall be responsible for collecting any such net amounts owed from tenants or returning any net amounts owed to tenants in accordance with terms of the applicable Leases.

(ii) At least five (5) business days prior to the Closing Date, Seller shall provide Purchaser with a reconciliation statement for calendar year 2021 through the end of the calendar month preceding the Closing Date (or the most recent month for which a reconciliation is available if a reconciliation is not yet available for the calendar month preceding the Closing Date), with all necessary supporting documentation, as to the Overage Rent paid by the tenants for calendar year 2021. Such reconciliation statement shall be based on the actual calendar year 2020, property tax bills and the actual operating expenses for 2021 and indicate any difference between the Overage Rent paid by the tenants (based on Seller's annual 2021 budget for real estate taxes and operating expenses) and the amount that should have been paid by the tenants through the Closing Date (based on the actual expenses covering such time period);

(iii) If the Seller has collected more on account of such Overage Rent than such actual amount for such time period (with it being acknowledged that such calculation shall be made only with respect to actually collected Overage Rent sums for such time period, and not any such sums that may be so receivable from tenants), then the amount of such difference shall be credited to Purchaser at the Closing;

(iv) If Seller has collected less from the tenants for Overage Rents than the actual amounts for such time period, then the amount of such under-collected rents shall be paid and delivered to Seller;

(v) Any Seller proposed prorations relating to Overage Rent shall be subject to Purchaser's review and reasonable approval.



(c) The provisions of this **Section 11.3** shall survive the Closing and the delivery of the Deed.

**11.4 Security Deposits.** All security deposits made by any of the tenants of the Property now held by Seller, including without limitation the security deposits as shown on **Exhibit B-1**, or received by Seller prior to Closing, will be turned over or credited to Purchaser at the Closing. If Seller is holding any Security Deposits in the form of letters of credit, Purchaser will not receive a credit for such Security Deposits. Purchaser will indemnify and hold Seller harmless and free from any liability with respect to security deposits turned over or credited to Purchaser and such hold harmless will include any security deposits in the form of letters of credit which are transferred to Purchaser. Seller shall reasonably cooperate with Purchaser to cause Security Deposits that are in the form of a letter of credit or other instrument to be transferred or re-issued to Purchaser, and, until such transfer or re-issuance, Seller shall, as Purchaser's agent and at its request, draw on any letter of credit in accordance with the applicable Lease and deliver the proceeds to Purchaser. In the event Purchaser makes such a request, and Seller effects a draw on the letter of credit and delivers the applicable proceeds to Purchaser, Purchaser agrees to indemnify, defend, and hold Seller harmless from any claims arising therefrom, including any assertion by a tenant that such draw was wrongful or a breach of the applicable lease, which indemnification shall be inclusive of reasonable attorney's fees. Any out-of-pocket expense incurred by Seller in such cooperation shall be promptly reimbursed by Purchaser (including the costs and expenses resulting from the transfer of the security deposits that are in the form of a letter of credit). The indemnity provided by Purchaser to Seller pursuant to this **Section 11.4** shall survive the Closing and the delivery of the Deed.

**11.5 Existing Debt.** (i) Seller shall be responsible for all principal required to be paid under the terms of each Existing Debt promissory note prior to the Cut Off Time, together with all interest accrued under, and any other amounts due and payable under, such Existing Debt prior to the Cut Off Time (excluding any Existing Debt Fees, which shall be the obligation of Purchaser), and (ii) Purchaser shall be responsible for the payment of all principal required to be paid from and after the Cut Off Time, together with all interest accruing under, and any other amounts due and payable under, each Existing Debt from and after the Cut Off Time. Further, if the Existing Debt Assumption and Release occurs at Closing pursuant to **Section 4.4**, Seller shall be credited for and Purchaser shall be charged for all amounts held in reserves, impounds and other accounts maintained in connection with the Existing Debt as of the Cut Off Time, to the extent assigned to Purchaser.

**11.6 Mezzanine Loan Prorations.** Seller shall receive a credit to the Purchase Price equal to (i) the amount of any accrued and unpaid Current Interest (as defined in Section 5.1(a) of that certain Mezzanine Loan Agreement by and between 8West Holdings Mezz Member, LLC, and 8 West, dated as of November 30, 2018, as amended by that certain First Amendment thereto, dated as of July 12, 2019, but made effective as of June 30, 2019, that evidences the Mezzanine Loan the "**Mezzanine Loan Agreement**") outstanding on the Mezzanine Loan which is applicable to the period prior to Closing, plus (ii) the amount of the Accrued Interest (as defined in Section 5.1(a) the Mezzanine Loan Agreement) accruing during the period between the originally scheduled Closing Date and any later Closing Date that actually occurs under the

terms of this Agreement in the event that the originally scheduled Closing Date is extended, plus (iii) the amount of any mezzanine loan principal advanced under the Mezzanine Loan Agreement between the Effective Date and the Closing Date and the Accrued Interest that has accrued thereon during the period between the date of such advance and the Closing Date.

**11.7 Final Adjustment After Closing.** If final bills are not available or cannot be issued prior to Closing for any item being prorated under this Article, then Purchaser and Seller shall re-prorate such items on a fair and equitable basis on or before the later of (x) ninety (90) days after Closing or (y) thirty (30) days after the date that Seller and Purchaser are able to determine 2021 calendar year property taxes, which proration shall be based on 100% of the assessed value; provided, however, if Purchaser elects to contest the property taxes for calendar year 2021, there shall be a final re-proration within thirty (30) days of receipt of the final 2021 calendar year property taxes. Such final re-proration shall be based on 100% of the final tax bills following the resolution of any such appeal. Purchaser shall promptly notify Seller of its election to appeal the calendar year 2021 real estate taxes and shall keep Seller reasonably informed of the progress of any appeal, including the final resolution. Payments in connection with the final adjustment will be due within ten (10) business days of notice. Purchaser and Seller agree to cooperate and to use commercially reasonable efforts to complete such adjustments in accordance with times set forth in this **Section 11.7**. In addition, if any error in either the calculations or amount of final figures used in a closing adjustment is discovered within sixty (60) days after Closing, Purchaser and Seller agree to correct such error promptly upon notice from the other party and to use commercially reasonable efforts to complete such adjustment within such sixty (60) day period after Closing. For the avoidance of doubt, except with respect to (x) 2021 calendar year property taxes and (y) deferred rent from tenants under Leases which relates to a period prior to the Closing Date and is received by Purchaser after Closing, all other proration, reconciliation, re-proration and settlement obligations of Purchaser and Seller under this **Section 11.7** shall terminate and be of no further force or effect from and after the date that is ninety (90) days after the Closing Date. This **Section 11.7** shall survive the Closing and the delivery of the Deed for the time periods set forth in this **Section 11.7**.

**11.8 Galleria 75 Tract Prepayment Penalty.** Seller shall receive a credit to the Purchase Price equal to the amount of any prepayment penalty or premium required to be paid by Seller on the Closing Date to satisfy Seller's obligations under that certain Promissory Note by and between Seller (as successor-in-interest to North Decatur Square Partners, LLC) and RGA Reinsurance Company, dated as of June 7, 2012, which is secured by that certain Deed to Secure Debt and Security Agreement encumbering the Galleria 75 Tract that shall be released at Closing using a portion of the proceeds from the Purchase Price.

**11.9 Thirty-Day Month.** All prorations and/or adjustments provided for in this Agreement will be made on the basis of a 30-day month, unless specifically stated otherwise.

## ARTICLE XII

### DEFAULT

**12.1 Default by Purchaser.** IF PURCHASER FAILS TO CONSUMMATE THIS AGREEMENT FOR ANY REASON OTHER THAN SELLER'S DEFAULT OR THE PERMITTED TERMINATION OF THIS AGREEMENT BY EITHER SELLER OR PURCHASER AS PROVIDED FOR IN THIS AGREEMENT, SELLER WILL BE ENTITLED, AS ITS SOLE REMEDY, TO TERMINATE THIS AGREEMENT AND RECEIVE THE DEPOSIT AS LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT. IT IS AGREED BETWEEN SELLER AND PURCHASER THAT THE ACTUAL DAMAGES TO SELLER IN THE EVENT OF SUCH BREACH ARE IMPRACTICAL TO ASCERTAIN, AND THE AMOUNT OF THE DEPOSIT IS A REASONABLE ESTIMATE THEREOF. NOTWITHSTANDING THE FOREGOING, SELLER SHALL RETAIN ALL ITS RIGHTS PURSUANT TO THIS AGREEMENT, AT LAW, OR IN EQUITY, AND NOTHING CONTAINED IN THIS **SECTION 12.1**, WILL LIMIT THE LIABILITY OF PURCHASER UNDER (I) ANY INDEMNITY PROVIDED BY PURCHASER UNDER THIS AGREEMENT; (II) ANY OF THE DOCUMENTS AND INSTRUMENTS EXECUTED AND DELIVERED TO SELLER PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR (III) ANY ACTIONS COMMENCED AFTER CLOSING WITH RESPECT TO ANY OBLIGATION OR REPRESENTATION OF EITHER SELLER OR PURCHASER, WHICH BY THE TERMS OF THIS AGREEMENT SURVIVES CLOSING, INCLUDING BUT NOT LIMITED TO, PROVISIONS REGARDING CONFIDENTIALITY AND PAYMENT OF BROKERAGE FEES.

**12.2 Default by Seller.** In the event of any default by Seller prior to or on the Closing Date under the terms of this Agreement, Purchaser's sole remedies will be either to: (i) terminate this Agreement and receive a refund of the Deposit in full consideration of any claims Purchaser may have against Seller; or (ii) to commence within sixty (60) days of the date the Closing was to have occurred and diligently prosecute an action in the nature of specific performance. If an action in the nature of specific performance is not an available remedy or if Purchaser elects to commence such action and is unsuccessful as a result of Seller's acts in violation of the terms of this Agreement, then the Deposit will be returned to Purchaser, and in addition, Seller shall pay to Purchaser all of the third-party costs actually incurred by Purchaser in connection with this transaction, including but not limited to, Purchaser's attorney's fees incurred in connection with the preparation and negotiation of this Agreement and conducting legal due diligence with respect to the Property, engineering fees, and other consultants and other fees charged by third parties for assisting Purchaser with Purchaser's due diligence of the Property up to a maximum aggregate amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00), and thereafter, the parties will be released from their obligations under this Agreement (except those that expressly survive termination of this Agreement). Under no circumstances will Purchaser have available to it an action at law or otherwise for damages, except as expressly set forth in this Agreement.

## ARTICLE XIII

### REPRESENTATIONS AND WARRANTIES

**13.1 Seller's Representations.** Seller represents and warrants to Purchaser the following (collectively, "**Seller's Representations**") as of the Effective Date and as of the Closing Date, provided that certain of Seller's Representations may be modified as a result of changes in facts or circumstances after the date hereof, which shall not be deemed to cause a breach of any of Seller's Representations unless Seller causes such changed facts or circumstances in violation of the terms of this Agreement; and provided, further, that Purchaser's remedies in the instance that any of Seller's Representations are untrue as of the Closing Date, are limited to those set forth in **Article XII**:

(a) Seller is duly organized, validly existing and in good standing under the laws of the state of its formation set forth in the initial paragraph of this Agreement, has or at the Closing will have the entity power and authority to sell and convey the Property and to execute the documents to be executed by Seller and prior to the Closing will have taken as applicable, all corporate or equivalent entity actions required for the execution and delivery of this Agreement, and the consummation of the transactions contemplated by this Agreement.

(b) Except relating to the Existing Debt, Seller has all necessary approvals to execute and deliver this Agreement and perform its obligations hereunder, and no other authorization or approvals, whether of governmental bodies or otherwise, will be necessary in order to enable Seller to enter into or comply with the terms of this Agreement.

(c) This Agreement and the other documents to be executed by Seller hereunder, upon execution and delivery thereof by Seller, will have been duly entered into by Seller, and will constitute legal, valid and binding obligations of Seller. Neither this Agreement nor anything provided to be done under this Agreement violates or shall violate any contract, document, understanding, agreement or instrument to which Seller is a party or by which it is bound.

(d) Seller is a "United States person" within the meaning of Sections 1445(f)(3) and 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

(e) The Leases provided to Purchaser by Seller are true, correct and complete copies of the Leases between Seller and the tenants thereunder, including any and all amendments, renewals and extensions thereof. The Schedule of Existing Tenants attached hereto as **Exhibit B** was prepared for Seller by Seller's property manager of the Property, and to Seller's knowledge, is true and correct in all material respects and lists all Leases as of the Effective Date and a report of delinquencies under the Leases existing as of the Effective Date and is the schedule of Leases maintained by Seller and relied on by Seller for internal administration purposes. As of the Effective Date and except as set forth on **Exhibit B-2**, (i) Seller has received no written notice of any default by the landlord under the Leases, and (ii) Seller has not entered into any oral leases affecting the Property.

(f) To Seller's knowledge, Seller has received no written notice from any governmental body or agency of any violation or alleged violation of any zoning ordinance, land use law or building code with respect to the Property, which violation or alleged violation has not been corrected.

(g) Seller has received no written notice from any governmental body or agency of any violation or alleged violation of any applicable law with respect to Hazardous Materials on the Property.

(h) Seller and, to Seller's knowledge, its partners, members, principal stockholders and any other constituent entities (i) has not been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>> or at any replacement website or other replacement official publication of such list and (ii) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

(i) Except as set forth on **Schedule 2** attached hereto which is hereby incorporated in and constitutes part of this Agreement, to Seller's knowledge, no pending or threatened litigation involving the Property or Seller exists which if determined adversely would restrain the consummation of the transactions contemplated by this Agreement or would declare illegal, invalid or non-binding any of Seller's obligations or covenants to Purchaser pursuant to this Agreement.

(j) To Seller's knowledge, the Service Agreements provided to Purchaser by Seller are true, correct and complete copies of the Service Agreements relevant to the Property, including any and all amendments, renewals and extensions thereof. To Seller's knowledge, no party is in material default with respect to its obligations or liabilities under any of the Service Agreements.

(k) There are no employees who are employed by Seller or any property manager engaged by Seller in the operation, management or maintenance of the Property whose employment will continue after Closing. On and after the Closing, there will be no obligations concerning any pre-Closing employees of Seller, nor will there be any property management agreement which will be binding on Purchaser or the Property.

(l) There is no receivership, or voluntary or involuntary proceeding in bankruptcy or pursuant to any other debtor relief laws, pending by or against Seller.

(m) To Seller's knowledge, there are no outstanding options to purchase, rights of first offer or rights of first refusal, with respect to the Property.

(n) To Seller's knowledge, (i) copies of the Ground Leases delivered to Purchaser for review are true, accurate and complete copies thereof, and constitute the entire agreement between Seller and Ground Lessors with respect to the Ground Leases; (ii) the Ground Leases are in full force and effect and have not been amended or modified except as set forth in the documents evidencing the Ground Leases (and all amendments thereto) delivered from Seller to Purchaser; and (iii) Seller has not received any written notice from the Ground Lessors that Seller is in default in any respect of its obligations thereunder that has not been cured, and Seller has not delivered any written notice to Ground Lessors that Ground Lessors are in default in any respect of any of their obligations under the Ground Leases.

(o) (i) 8 West has the authority and right to sell and assign its right, title and interest in, to and under, or arising out of, the Mezzanine Loan; (ii) 8 West is the sole owner of the Mezzanine Loan and has not assigned, pledged, promised, encumbered or otherwise transferred any interest in the Mezzanine Loan or any of the Mezzanine Loan Documents to any other person or party; (iii) the copies of the Mezzanine Loan Documents provided by Seller to Purchaser are true and complete copies thereof, and to Seller's actual knowledge, each of such instruments is in full force and effect and binding in accordance with its terms, and has not been modified; and (iv) as of the Effective Date, the principal balance of the Mezzanine Loan, the date to which interest has been paid thereunder, and the escrow/reserve funds, if any, paid under the terms of the Mezzanine Loan Documents are as set forth on **Exhibit J-1**. To the extent that 8 West receives any principal or interest payments from or on behalf of the borrower under the Mezzanine Loan Documents after the Effective Date, Seller shall provide Purchaser with a written statement on the Closing Date with any updates to the outstanding principal balance of the Mezzanine Loan, the date to which interest has been paid and the amount of any escrow/reserve funds, if any, paid in connection therewith.

(p) Seller has received no written notice from any Existing Lender of any default or alleged default by Seller (as Borrower) under the Existing Debt.

**13.2 Definition of Seller's Knowledge.** Any representation made "to Seller's knowledge" will not be deemed to imply any duty of inquiry. For purposes of this Agreement, the term Seller's "knowledge" means the actual knowledge of the Designated Representative of Seller and will not be construed to refer to the knowledge of any other officer, director, agent, employee or representative of the Seller, or any Affiliate of Seller, or to impose upon such Designated Representative any duty to investigate the matter to which such actual knowledge or the absence thereof pertains, or to impose upon such Designated Representative any individual personal liability. As used herein, the term "**Designated Representative of Seller**" refers to Carl Dickson, who is Executive Vice President of Asset Management of Seller's Affiliate, and has knowledge of the matters which are the subject of Seller's representations and warranties in **Section 13.1** above.

**13.3 Purchaser's Representations, Warranties, and Covenants.** For the purpose of inducing Seller to enter into this Agreement and to consummate the sale and purchase of the Property in accordance herewith, Purchaser represents and warrants to Seller the following as of the Effective Date and as of the Closing Date:

(a) Purchaser is a limited partnership, duly organized, validly existing and in good standing under the laws of the State of North Carolina.

(b) Purchaser, acting through any of its duly empowered and authorized officers or members, has all necessary entity power and authority to transact the business in which it is engaged, and has full power and authority to enter into this Agreement, to execute and deliver the documents and instruments required of Purchaser herein, and to perform its obligations hereunder; and no consent not obtained of any of Purchaser's partners, directors, officers or members is required to so empower or authorize Purchaser. The compliance with or fulfillment of the terms and conditions hereof will not conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement to which Purchaser is a party or by which Purchaser is otherwise bound, which conflict, breach or default would have a material adverse effect on Purchaser's ability to consummate the transaction contemplated by this Agreement.

(c) No pending or, to the knowledge of Purchaser, threatened litigation involving Purchaser exists which if determined adversely would restrain the consummation of the transactions contemplated by this Agreement or would declare illegal, invalid or non-binding any of Purchaser's obligations or covenants to Seller.

(d) Other than Seller's Representations and any representations of Seller made in the Closing Documents, Purchaser has not relied on any representation or warranty made by Seller or any representative of Seller, including Broker (as hereinafter defined in **Section 2.2(a)**), in connection with this Agreement and the acquisition of the Property.

(e) Purchaser and, to Purchaser's knowledge, its partners, members, principal stockholders and any other constituent entities (i) has not been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, [http://www.treas.gov/offices/enforcement/ofac/sdn/t11\\_sdn.pdf](http://www.treas.gov/offices/enforcement/ofac/sdn/t11_sdn.pdf) or at any replacement website or other replacement official publication of such list; (ii) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto; and (iii) has not used and will not use funds from illegal activities for any portion of the Purchase Price, including the Deposit.

(f) Purchaser is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("**ERISA**"), which is subject to Title I of ERISA, or a "plan" as defined in Section 4975(e)(1) of the Code, which is subject to Section 4975 of the Code; and (b) the assets of Purchaser do not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA or Section 4975 of the Code; and (c) Purchaser is not a "governmental plan" within the meaning of Section 3(32) of ERISA, and assets of Purchaser do not constitute plan assets of one or more such plans; or (d) transactions by or with Purchaser

are not in violation of state statutes applicable to Purchaser regulating investments of and fiduciary obligations with respect to governmental plans.

(g) Purchaser is (i) an “Eligible Assignee,” as such term is defined in that certain Mezzanine Loan Agreement, and (ii) a “Qualified Transferee,” as such term is defined in that certain Intercreditor Agreement by and between Rubenstein Direct Lending, LLC, and 8 West, dated as of July 12, 2019, but made effective as of June 30, 2019 (the “**Intercreditor Agreement**”). Upon Purchaser’s request, Seller shall use commercially reasonable good faith efforts to facilitate conversations and obtain consents from the counterparties under the Mezzanine Loan Agreement and/or the Intercreditor Agreement; provided, however, under no circumstances shall any such consent constitute a condition to Closing under this Agreement. Furthermore, if subsequent to Closing Seller or POP 8 West Mezzanine Lender, LLC receives any payments from 8West or any subsequent obligor under the Mezzanine Loan Documents, which are applicable to the period after Closing, Seller will within three (3) business days after receipt of such payment(s), Seller or POP 8 West Mezzanine Lender, LLC (as applicable) remit such payment(s) to Purchaser.

**13.4 Survival.** The representations and warranties made by Purchaser in **Section 13.3** (other than those made in **Sections 13.3 (e) and (f)** which are meant to survive indefinitely) shall survive the Closing and delivery of the Deed for a period of six (6) months.

#### ARTICLE XIV

#### ESCROW PROVISIONS

**14.1 Escrow Provisions.** The Deposit and any other sums (including without limitation, any interest earned thereon) which the parties agree shall be held in escrow (collectively “**Escrow Funds**”), shall be held by Escrow Agent, in trust and disposed of only in accordance with the following provisions:

(a) Escrow Agent hereby agrees to hold, administer, and disburse the Escrow Funds pursuant to this Agreement. Escrow Agent shall invest such Escrow Funds in a segregated, interest-bearing money market account at a national bank reasonably acceptable to Seller and Purchaser. In the event any interest or other income shall be earned on such Escrow Funds, such interest or other income shall become a part of the Escrow Funds and will be the property of the party entitled to the Deposit pursuant to this Agreement. Purchaser’s and Seller’s Federal Identification Numbers are set forth below.

(b) At such time as Escrow Agent receives written notice from either Purchaser or Seller, or both, setting forth the identity of the party to whom such Escrow Funds (or portions thereof) are to be disbursed and further setting forth the specific section or paragraph of the Agreement pursuant to which the disbursement of such Escrow Funds (or portions thereof) is being requested, Escrow Agent shall disburse such Escrow Funds pursuant to such notice; provided, however, that if such notice is given by either Purchaser or Seller but not both, Escrow Agent shall (i) promptly notify the other party (either Purchaser or Seller as the case may be) that Escrow Agent has received a request for disbursement, and (ii) withhold disbursement of such



Escrow Funds for a period of ten (10) days after receipt of such notice of disbursement and if Escrow Agent receives written notice from either Purchaser or Seller within said ten (10) day period which notice countermands the earlier notice of disbursement, then Escrow Agent shall withhold such disbursement until both Purchaser and Seller can agree upon a disbursement of such Escrow Funds. Purchaser and Seller hereby agree to send to the other, pursuant to **Section 15.6** below, a duplicate copy of any written notice sent to Escrow Agent and requesting any such disbursement or countermanding a request for disbursement.

(c) In performing any of its duties hereunder, Escrow Agent shall not incur any liability to anyone for any damages, losses, or expenses, except for willful default or breach of trust, and it shall accordingly not incur any such liability with respect to (i) any action taken or omitted in good faith upon advice of its legal counsel given with respect to any questions relating to the duties and responsibilities of Escrow Agent under this Agreement, or (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for in this Agreement, not only as to its due execution and the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons, and to conform with the provisions of this Agreement.

(d) Notwithstanding the provisions of **Section 14.1(b)** above, in the event of a dispute between Purchaser and Seller sufficient, in the sole discretion of Escrow Agent to justify its doing so or in the event that Escrow Agent has not disbursed the Escrow Funds on or before ten (10) days after the Closing Date, Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction the Escrow Funds, together with such legal pleadings as it may deem appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement. Any such legal action may be brought in a federal or state court in Wake County, North Carolina or, if is such courts do not have jurisdiction as to the parties or matters involved then such court as Escrow Agent shall determine to have jurisdiction thereof.

(e) Escrow Agent has executed this Agreement in the place indicated on the signature page hereof in order to confirm that the Escrow Agent has received the Deposit and shall hold the Escrow Funds in escrow, and shall disburse the Escrow Funds pursuant to the provisions of this **Article XIV**. A copy of the fully executed Agreement shall be delivered to both parties hereto.

## ARTICLE XV

### GENERAL PROVISIONS

**15.1 No Agreement Lien.** In no event will Purchaser have a lien against the Property by reason of any deposits made under this Agreement or expenses incurred in connection therewith and Purchaser waives any right that it might have to so lien the Property.

## 15.2 Confidentiality.

(a) Except as provided otherwise in this **Section 15.2**, Purchaser and Seller, for the benefit of each other, hereby agree that neither of them will release, or cause or permit to be released, to the public any press releases or notices except as set forth in **Section 15.2(b)** below, publicity (oral or written) or advertising promotion relating to, or otherwise publicly announce or disclose, or cause or permit to be publicly announced or disclosed, in any manner whatsoever (i) the names of Seller or Purchaser respectively, or any of their Affiliates or investors in relation to the transactions contemplated by this Agreement, or (ii) the existence of this Agreement or any of the terms, conditions or substance of this Agreement, without in each case first obtaining the consent of the other party hereto. Each of Seller and Purchaser shall cause its Representatives to comply with the terms of this **Section 15.2** (and each party agrees that any breach of this **Section 15.2** caused by any disclosure by any of its Representatives shall be deemed a breach by such party hereunder).

(b) It is understood and agreed that the foregoing shall not preclude (i) any party hereto from disclosing information that is or becomes public (so long as the disclosure is not the result of a violation of this Agreement), and the substance or any relevant details of the transactions contemplated by this Agreement, (ii) Purchaser from sharing information relating to the transactions contemplated by this Agreement, the Property and/or any other information obtained from any person in connection with the foregoing, on a confidential basis with Purchaser's Affiliates and its and their respective officers, directors, employees, attorneys, accountants, professional consultants, advisors, financial advisors, rating agencies, potential joint venture partners, potential lenders and/or representatives (collectively, "**Representatives**"), (iii) any party hereto from making any Unrestricted Disclosure (as hereinafter defined), and (iv) any party hereto from disclosing information if necessary or advisable at the direction of legal counsel to comply with applicable laws or the requirements of a court of competent jurisdiction, including without limitation, governmental regulatory disclosure, tax and reporting requirements. The parties hereto hereby acknowledge that Preferred Apartment Communities, Inc. ("**PAC**"), the parent entity of Seller, and Highwoods Properties, Inc. ("**HPI**"), the parent entity of Purchaser, are each a publicly traded company, and as such, each is subject to extensive reporting and disclosure requirements under statutory and common law duties owed to each of its shareholders and in accordance with applicable securities laws. These requirements may include, but are not limited to: (A) filing a copy of this Agreement with the Securities and Exchange Commission ("**SEC**"), (B) reporting on the results of the transactions contemplated by this Agreement in filings and/or reports under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, and related press releases; provided, however, Purchaser and Seller shall provide the other party with (I) a draft copy of any press release to be issued by such party in advance of issuing such press release, and (II) the opportunity to review and provide comments to the draft press release, which PAC or HPI, as applicable, shall consider in good faith; provided, further, for the avoidance of doubt, neither Purchaser nor Seller shall have a right to approve any press release to be issued by PAC or HPI, respectively; and (C) describing this Agreement and the transactions contemplated by this Agreement in such filings, reports and/or releases (the "**Unrestricted Disclosures**"). The Unrestricted Disclosures shall also include disclosures of information about this Agreement and the transactions contemplated by

this Agreement by representatives of PAC or HPI (as applicable) in the ordinary course of business to The New York Stock Exchange, financial analysts, rating agencies, banks and other similar persons or institutions, which information is of the same general nature as that disclosed about PAC or HPI (as applicable) to such persons or institutions in the ordinary course of business.

(c) In addition to any other remedies available at law to Seller and Purchaser, Seller and Purchaser shall each have the right to seek equitable relief, including injunctive relief or specific performance, against the other party and/or its Representatives in order to enforce the provisions of this **Section 15.2**.

(d) Notwithstanding any other provision of this Agreement, the provisions of this **Section 15.2** shall survive the Closing or the earlier termination of this Agreement.

**15.3 Headings.** The captions and headings herein are for convenience and reference only and in no way define, describe or limit the scope, content or intent of this Agreement or in any way affect its provisions.

**15.4 Brokers.** Seller and Purchaser agree that Broker was the only broker with whom the parties negotiated in connection with the sale and purchase of the Property. Seller is obligated to pay any and all brokerage commissions payable to the Broker, in accordance with a separate agreement between it and the Broker. Seller agrees to indemnify and hold Purchaser harmless from the claims of any other party claiming a commission due it by reason of an agreement with Seller. Purchaser agrees to indemnify and hold Seller harmless from the claims of any other party claiming a commission due it by reason of an agreement with Purchaser. Purchaser will be responsible for paying an independent advisory fee to JP Morgan pursuant to an agreement between them regarding JP Morgan's investment advice in connection with this transaction. The provisions of this Section will survive the Closing and the delivery of the Deed or termination of this Agreement.

**15.5 Modifications.** This Agreement may not be modified in any respect except by an instrument in writing and duly signed by the parties hereto. The parties agree that this Agreement contains all of the terms and conditions of the understanding between the parties hereto and that there are no oral understandings whatsoever between them.

**15.6 Notices.** All notices, consents, approvals, acceptances, demands, waivers and other communications ("**Notice**") required or permitted hereunder must be in writing and must be sent by (i) personal delivery, (ii) certified mail, return receipt requested, (iii) for next day delivery by nationally recognized overnight delivery service that provides evidence of the date of delivery, or (iv) electronic mail, in any case with all charges prepaid, addressed to the appropriate party at its address listed below.

To Seller: Preferred Apartment Communities, Inc.  
3284 Northside Parkway, Suite 150  
Atlanta, Georgia 30327  
Attention: Jared A. Seff, Esq.

Email: jseff@pacapts.com

With a copy to: King & Spalding LLP  
1180 Peachtree Street, NE  
Atlanta, GA 30309  
Attention: Joshua M. Kamin, Esq.  
Email: jkamin@kslaw.com

To Purchaser: Highwoods Realty Limited Partnership  
3100 Smoketree Court, Suite 600  
Raleigh, NC 27604  
Attention: Jeffrey D. Miller, Esq.  
Email: jeff.miller@highwoods.com

With a copy to: Allman Spry Davis Leggett & Crumpler, PA  
380 Knollwood Street, Suite 700  
Winston-Salem, NC 27103  
Attention: Thomas T. Crumpler, Esq.  
Email: tcrumpler@allmanspry.com

All Notices given in accordance with this Section will be deemed to have been received three (3) business days after having been deposited in any mail depository regularly maintained by the United States Postal Service, if sent by certified mail, on the date delivered if by personal delivery or electronic mail or one (1) business day after having been deposited with a nationally recognized overnight delivery service, if sent by overnight delivery, or on the date delivery is refused, as indicated on the return receipt or the delivery records of the delivery service, as applicable. Notices given by counsel to a party in accordance with the above shall be deemed given by such party.

**15.7 Assignment.** Purchaser will not assign this Agreement or its rights hereunder without Seller's prior written consent, which may be withheld in Seller's sole and absolute discretion, and any attempted assignment or transfer without Seller's consent will be null and void ab initio and of no effect. The foregoing notwithstanding, provided that Purchaser is in compliance with the conditions hereinafter set forth, Purchaser shall have the right to assign this Agreement, without Seller's consent, provided (a) the assignment is effective on the Closing Date, (b) the assignment is to an Affiliate of Purchaser created by Purchaser or its qualified intermediary which may organize an "exchange accommodation title holder" ("**EAT**") for the purpose of "parking" the Property in connection with and to accommodate a reverse exchange of property under Section 1031 of the Internal Revenue Code as described in **Section 15.26** hereof, (c) the assignment is on the form attached hereto as **Exhibit Q** or is a form required by Purchaser qualified intermediary and its EAT (provided, Seller incurs no cost in connection therewith) and includes all of Purchaser's right, title and interest in and to the Deposit, and provides for the assumption, for the benefit of Seller as a third-party beneficiary, of all of Purchaser's obligations under this Agreement, (d) that such assignee has assumed any and all obligations and liabilities

of Purchaser under this Agreement, but, notwithstanding such assumption, Purchaser shall continue to be liable hereunder, and (e) Purchaser provides Seller, at least seven (7) business days' prior to Closing, with written notice of such assignment and executed counterparts of all documents evidencing or otherwise executed in connection with such assignment. Any assignment which fails to meet the criteria of this **Section 15.7** or to which Seller has not otherwise consented shall be void and of no force or effect. Purchaser shall deliver to Seller prior to Closing, and as a condition to the effectiveness of any such assignment, such supporting evidence of the foregoing as is reasonably required by Seller.

**15.8 Further Assurances.** Purchaser and Seller hereby agree to complete, execute and deliver to the appropriate governmental authorities any returns, affidavits or other instruments that may be required with respect to any transfer, gains, sales, stamps and similar taxes, if any, arising out of this transaction.

**15.9 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Georgia.

**15.10 Offer Only.** This Agreement will not constitute a binding agreement by and between the parties hereto until such time as this Agreement has been duly executed and delivered by each and the Deposit is deposited with the Escrow Agent in accordance with this Agreement.

**15.11 Counterparts.** This Agreement may be executed in counterparts, each of which, when taken together shall constitute fully executed originals.

**15.12 E-mail or PDF Signatures.** Signatures to this Agreement and the Site Access and Indemnification Agreement transmitted by e-mail or PDF shall be valid and effective to bind the party so signing. A copy of the electronic mail or PDF shall also be sent to the intended addressee by one of the means described in clauses (i) or (ii) of **Section 15.6** above, in any case with all charges prepaid, addressed to the appropriate party at its address provided herein.

**15.13 Entire Agreement; Severability.** This Agreement, together with the Site and Access Agreement, embody the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties, nor any representations made by either party relative to the subject matter hereof, which are not expressly set forth herein. If any portion of this Agreement becomes or is held to be illegal, null or void or against public policy, for any reason, the remaining portions of this Agreement will not be affected thereby and will remain in force and effect to the fullest extent permissible by law.

**15.14 No Waiver.** No waiver by Purchaser or Seller of a breach of any of the terms, covenants or conditions of this Agreement by the other party will be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default by Purchaser or Seller under this Agreement will be implied from any omission by the other party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect a default other than as specified in such waiver. The consent or approval by Purchaser or Seller to or of

any act by the other party requiring the consent or approval of the first party will not be deemed to waive or render unnecessary such party's consent or approval to or of any subsequent similar acts by the other party.

**15.15 Limitation of Liability.** If Purchaser becomes aware after Closing of any breach and/or violation of any of Seller's representations and/or warranties and/or Excepted Claims set forth herein, or of any other matter for which Seller would or could become liable to Purchaser, whether hereunder or under any Closing document, and Purchaser timely commences any action(s) to enforce any alleged breach and/or violation of any of the representations and/or warranties of Seller, or Seller's liability for an Excepted Claim as set forth in this Agreement or to enforce any other claims for liability against Seller, and, notwithstanding any provision to the contrary contained herein or in any document executed by Seller pursuant hereto or in connection herewith, in no event shall Seller be liable for any special, consequential, speculative, punitive or similar damages, nor shall Seller's liability in any such event or events exceed one and one-half percent (1.50%) of the Purchase Price ("**Seller's Maximum Liability**") and no claim by Purchaser may be made and Seller shall not be liable for any judgment in any action based upon any such claim unless and until Purchaser's claims are for an aggregate amount in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) (the "**Claims Threshold**"), in which event Seller's liability respecting any final judgment concurring such claim(s) shall be for the entire amount thereof, subject to Seller's Maximum Liability. The amount of Seller's Maximum Liability shall be inclusive of attorneys' fees, and ancillary court and experts' costs and fees. Purchaser agrees that, prior to making any claims against Seller, Purchaser shall, to the extent applicable, pursue any remedies it may have against the Title Company pursuant to the Title Policy. The provisions of this **Section 15.15** will survive the Closing and the delivery of the Deed.

**15.16 Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**15.17 Successors and Assigns.** Subject to the limitations set forth elsewhere in this Agreement, each and all of the covenants and conditions of this Agreement will inure to the benefit of and will be binding upon the successors-in-interest, assigns, and representatives of the parties hereto. As used in the foregoing, "successors" refers to the successors to all or substantially all of the assets of parties hereto and to their successors by merger or consolidation.

**15.18 No Partnership or Joint Venture.** Seller or Purchaser will not, by virtue of this Agreement, in any way or for any reason be deemed to have become a partner of the other in the conduct of its business or otherwise, or a joint venturer. In addition, by virtue of this Agreement there shall not be deemed to have occurred a merger of any joint enterprise between Purchaser and Seller.

**15.19 No Recordation.** Seller and Purchaser each agrees that neither this Agreement nor any memorandum, short form agreement or notice hereof shall be recorded, and Purchaser further agrees (a) not to file any notice of pendency, *lis pendens* or other instrument (other than a

judgment) against the Property or any portion thereof, and (b) to be responsible for and to indemnify Seller against all Liabilities (including reasonable attorneys' fees, expenses and disbursements) incurred by Seller by reason of the filing by Purchaser of any such notice of pendency, *lis pendens* or other instrument.

**15.20 Designation Agreement.** Section 6045(e) of the United States Internal Revenue Code and the regulations promulgated thereunder (herein collectively called the "**Reporting Requirements**") require an information return to be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Transaction. Escrow Agent is either (x) the person responsible for closing the Transaction (as described in the Reporting Requirements) or (y) the disbursing title or escrow company that is most significant in terms of gross proceeds disbursed in connection with the Transaction (as defined in the Reporting Requirements). Accordingly:

(a) Escrow Agent is hereby designated as the "**Reporting Person**" (as defined in the Reporting Requirements) for the Transaction. Escrow Agent shall perform all duties that are required by the Reporting Requirements to be performed by the Reporting Person for the Transaction.

(b) Seller and Purchaser shall furnish to Escrow Agent, in a timely manner, any information requested by Escrow Agent and necessary for Escrow Agent to perform its duties as Reporting Person for the Transaction.

(c) Escrow Agent hereby requests Seller to furnish to Escrow Agent Seller's correct taxpayer identification number. Seller acknowledges that any failure by Seller to provide Escrow Agent with Seller's correct taxpayer identification number may subject Seller to civil or criminal penalties imposed by law. Accordingly, Seller hereby certifies to Escrow Agent, under penalties of perjury, that Seller's correct taxpayer identification number is as set forth opposite Seller's signature to this Agreement.

(d) Each of the parties hereto shall retain this Agreement for a period of four (4) years following the calendar year during which Closing occurs.

The provisions of this **Section 15.20** will survive the Closing and the delivery of the Deed.

**15.21 Survival.** Seller covenants, agreements, indemnities, warranties and representations contained in this Agreement and in any document executed by Seller pursuant to this Agreement, including, without limitation, all Excepted Claims (except for those set forth in **Sections 13.1(d), 13.1(h), 15.2, 15.15, 15.20,** and this **Section 15.21** which are meant to survive indefinitely), shall survive Purchaser's purchase of the Property only for a period commencing on the Closing Date and ending six (6) months after the Closing Date or, if another period of time is specified, such other period of time (as applicable, the "**Survival Period**"). It is expressly agreed that any action, suit or proceeding with respect to the truth, accuracy or completeness of all representations and warranties in this Agreement or the breach of any covenant or agreement in this Agreement or in any closing document, shall be commenced, if at all, on or before the end

of the Survival Period and, if not commenced on or before such date, thereafter will be void and of no force or effect. The provisions of this **Section 15.21** will survive the Closing and the delivery of the Deed and/or termination of this Agreement. Purchaser shall provide written notice to Seller prior to the expiration of the Survival Period of any alleged breach of such covenants, indemnities, warranties or representations and shall allow Seller thirty (30) days within which to cure such breach, or, if such breach cannot reasonably be cured within thirty (30) days, an additional reasonable period of time so long as a cure has been commenced and is being diligently pursued. If Seller fails to cure such breach after written notice and within such cure period, Purchaser's sole remedy shall be an action at law for actual damages as a consequences thereof, which must be commenced, if at all, within the Survival Period; provided, however, that if within the Survival Period Purchaser gives Seller written notice of such a breach and Seller notifies Purchaser of Seller's commencement of a cure, commences to cure and thereafter terminates such cure effort, Purchaser shall have an additional thirty (30) days from the date of such termination within which to commence an action at law for damages as a consequence of Seller's failure to cure. The Survival Period referred to herein shall apply to known as well as unknown breaches of such covenants, indemnities, warranties or representations. Purchaser's waiver(s) and release(s) set forth in **Sections 1.6** and **1.7** shall apply fully to liabilities under such covenants, indemnities, representations and warranties and is hereby incorporated by this reference. Purchaser specifically acknowledges that such termination of liability represents a material element of the consideration to Seller. The limitation as to Seller's liability in this **Section 15.21** does not apply to Seller's or Purchaser's liability with respect to prorations and adjustments under **Article XI**.

Notwithstanding any contrary provision of this Agreement, if Seller becomes aware during the pendency of this Agreement prior to Closing of any matters which make any of its representations or warranties untrue in any material respect, Seller shall promptly disclose such matters to Purchaser in writing. In the event that Seller so discloses any matters which make any Seller's representations and warranties so untrue in any material respect or in the event that Purchaser otherwise becomes aware during the pendency of this Agreement prior to Closing of any matters which so make any of Seller's representations or warranties untrue in any material respect, Seller shall bear no liability for such matters (provided that such untruth is not the result of Seller's breach of any express covenant set forth in this Agreement), but Purchaser shall have the right to elect in writing on or before the Closing Date, (i) to waive such matters and complete the purchase of the Property without reduction of the Purchase Price in accordance with the terms of this Agreement, or (ii) as to any matters disclosed following the Effective Date, to terminate this Agreement if the failure of such representations or warranties would, individually or in the aggregate, result in an adverse impact or cost on or to the Property or Purchaser which, either (x) is in excess of the Claims Threshold, or (y) is less than the Claims Threshold and Purchaser does not receive a credit toward the Purchase Price of such amount at Closing.

No claim for a breach of any of Seller's Representations shall be actionable or payable (a) if such breach is due to or is based on a condition, state of facts or other matter that was known to Purchaser or disclosed to Purchaser or its Affiliate in the Property Documents or by email, overnight delivery or otherwise available to Purchaser or its Affiliate, or in writing delivered to Purchaser or its Affiliate prior to Closing.



**15.22 Third Party Beneficiaries.** This Agreement shall not confer any rights or remedies on any person other than the parties and their respective successors and permitted assigns.

**15.23 Access to Records Following Closing.** Purchaser agrees that for a period of six (6) months following Closing, Seller shall have the right during regular business hours, on five (5) days written notice to Purchaser, to examine and review at Purchaser's office (or, at Purchaser's election, at the Property), the books and records of Seller relating to the ownership and operation of the Property, which was delivered by Seller to Purchaser at the Closing. Likewise, Seller agrees that for a period of six (6) months following the Closing, Purchaser shall have the right during regular business hours, on fifteen (15) days written notice to Seller, to examine and review at Seller's office, all non-confidential or non-proprietary books, records and files, if any, retained by Seller relating to the ownership and operation by Seller prior to the Closing of the Property. The provisions of this Section shall survive for a period of six (6) months after the Closing Date. Notwithstanding the foregoing, Seller and Purchaser shall cooperate with one another in a commercially reasonable manner in connection with any reconciliation or audit of tenant expenses, and such obligation shall survive Closing until all such matters are finally resolved.

**15.24 Joint and Several.** The liability of each constituent entity comprising Seller shall be joint and several with the liability of each other constituent entity comprising Seller.

**15.25 Cooperation with Purchaser's Auditors and SEC Filing Requirements.** Seller shall provide to Purchaser (at Purchaser's sole expense) copies of, or shall provide Purchaser access to, such factual information as may be reasonably requested by Purchaser, or its accountants, and in the possession or control of Seller, or its accountants (and will request its property manager as of the date of Closing to provide such information), and which is necessary to enable Purchaser (or HPI and/or its Affiliates) to file its or their Forms 8-K, 10-Q or 10-K if, as and when such filing may be required by the SEC. Purchaser hereby releases and agrees to indemnify, defend and hold Seller, its Affiliates, agents, employees, and partners, harmless from and against any claims, liability, expenses (including without limitation reasonable attorneys' fees), losses and damages arising out of Seller's cooperation hereunder or any information provided by Seller pursuant hereto; provided, however, that this indemnity shall not apply to the extent such liability is caused by the gross negligence or willful misconduct of Seller. The indemnity obligations of Purchaser to Seller under this **Section 15.25** shall survive the termination of this Agreement for any reason.

**15.26 Section 1031 Exchange.** The parties acknowledge that the conveyance of the Property to Purchaser may be structured by Purchaser as a like-kind exchange (including a "reverse exchange") pursuant to Section 1031 of the Internal Revenue Code and federal cases interpreting this rule (an "**Exchange**"). Seller agrees to reasonably cooperate with Purchaser in effecting such Exchange, provided that Purchaser shall bear all of the expenses and liabilities associated therewith, Seller shall not be subject to any liability, and provided further that Purchaser's ability to undertake any such exchange shall not in any manner be considered a condition of Purchaser's obligations under this Agreement and the same shall not delay the

Closing. It is contemplated that Purchaser may assign this Agreement to a “qualified intermediary” pursuant to Treasury Regulation Section 1.103(k)-I(g)4(v) and/or Purchaser may cause the Property to be conveyed (i.e., “parked”) with an EAT organized by a qualified intermediary pending Purchaser’s sale of other properties owned by Purchaser (its “relinquished property”) as part of the Exchange. Accordingly, in the event of such assignment and/or “parking” arrangement, Seller shall, upon notice from Purchaser, convey the Property at Closing to the EAT or EATs organized by Purchaser’s qualified intermediary, and shall to the extent of the assignment, treat the qualified intermediary and/or EAT(s) as the valid assignee of Purchaser’s rights hereunder. Notwithstanding anything contained herein, (a) Seller shall not be required to acquire or hold legal or beneficial title to, or any other interest, in any property for purposes of consummating Purchaser’s Exchange, (b) Seller shall have the right to review and approval (which approval shall not be unreasonably withheld, conditioned or delayed) all documents Seller is required to execute in connection with any Exchange, and (c) in the event of any Exchange, and notwithstanding that in connection with such Exchange record title to the Property may be conveyed by Seller to an accommodation entity which thereupon will later convey title to the Property to Purchaser, all covenants, agreements and indemnifications of Purchaser pursuant to this Agreement shall be deemed to be made by Purchaser, shall survive any conveyance by Seller to an accommodation party, shall continue in favor of and inure to the benefit of Seller and shall be enforceable by Seller against Purchaser to the extent provided in this Agreement as though the Property had been conveyed directly by Seller to Purchaser and the exchange shall in no way reduce, abridge or modify any of Purchaser’s obligations or any of Seller’s rights or remedies hereunder. Seller will have no liability to Purchaser under or in connection with any Exchange, including in the event the Exchange is not consummated, or in the event Purchaser does not achieve the desired tax treatment.

**15.27 Force Majeure Event.** If Closing does not occur on the Closing Date because of the occurrence of a Force Majeure Event (as defined below) (but unless Purchaser and Seller otherwise agree in writing, no such Force Majeure Event extension shall exceed ten (10) days in the aggregate), the Closing Date shall be extended to the next business day immediately following the cessation of the Force Majeure Event. For purposes of this Agreement, the term “**Force Majeure Event**” means acts of God (including, but not limited to tornadoes, floods, hurricanes and/or other weather conditions or other national disasters), expropriation or confiscation of facilities by any governmental authority, compliance with any order or request of any governmental authority, strikes, lockouts, riots, or other labor troubles or a national emergency, a pandemic or epidemic, or a failure of the Automated Clearing House or similar wire transfer system utilized for the transfer of money or similar causes not within Seller’s or Purchaser’s control.

[Remainder of page intentionally left blank; signature page(s) to follow]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto, as of the Effective Date.

**SELLER:**

**POP 4208 Six Forks Road, L.P.**, a Delaware limited partnership

By: POP Cap Trust GP, LLC, a Delaware limited liability company, its sole general partner

By: POP Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Office Properties, LLC, a Maryland limited liability company, its sole member

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:     /s/ Joel T. Murphy    

Name: Joel T. Murphy

Title: Chief Executive Officer and President

SELLER SIGNATURES CONTINUE ON THE FOLLOWING PAGE

*[Signature pages to Purchase and Sale Agreement]*

---

**POP Morrocroft, L.P.**, a Delaware limited partnership

By: POP Morrocroft GP, LLC, a Delaware limited liability company, its sole general partner

By: POP Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Office Properties, LLC, a Maryland limited liability company, its sole member

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:     /s/ Joel T. Murphy    

Name: Joel T. Murphy

Title: Chief Executive Officer and President

SELLER SIGNATURES CONTINUE ON THE FOLLOWING PAGE

*[Signature pages to Purchase and Sale Agreement]*

---

**POP 150 Fayetteville, LP**, a Delaware limited partnership

By: POP 150 GP, LLC, a Delaware limited liability company, its sole general partner

By: POP Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Office Properties, LLC, a Maryland limited liability company, its sole member

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:     /s/ Joel T. Murphy    

Name: Joel T. Murphy

Title: Chief Executive Officer and President

SELLER SIGNATURES CONTINUE ON THE FOLLOWING PAGE

*[Signature pages to Purchase and Sale Agreement]*

---

**POP Capitol Towers, LP**, a Delaware limited partnership

By: POP NC GP, LLC, a Delaware limited liability company, its sole general partner

By: POP Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Office Properties, LLC, a Maryland limited liability company, its sole member

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:     /s/ Joel T. Murphy    

Name: Joel T. Murphy

Title: Chief Executive Officer and President

SELLER SIGNATURES CONTINUE ON THE FOLLOWING PAGE

*[Signature pages to Purchase and Sale Agreement]*

---

**PAC Galleria 75, LLC.**, a Delaware limited liability company

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:  /s/ Joel T. Murphy

Name: Joel T. Murphy

Title: Chief Executive Officer and President

**POP 8 West Mezzanine Lending, LLC.**, a Delaware limited liability company

By: PAC Lending, LLC, a Delaware limited liability company, its sole member

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:  /s/ Joel T. Murphy

Name: Joel T. Murphy

Title: Chief Executive Officer and President

SELLER SIGNATURES CONTINUE ON THE FOLLOWING PAGE

---

*[Signature pages to Purchase and Sale Agreement]*

**Preferred Office Properties, LLC.**, a Maryland limited liability company

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:     /s/ Joel T. Murphy    

Name: Joel T. Murphy

Title: Chief Executive Officer and President

END OF SELLER SIGNATURES

*[Signature pages to Purchase and Sale Agreement]*

---



IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto, as of the Effective Date.

**PURCHASER:**

**Highwoods Realty Limited Partnership**, a North Carolina limited partnership

By: Highwoods Properties, Inc., a Maryland corporation, its Sole General Partner

By: /s/ Jeffrey D. Miller

Name: Jeffrey D. Miller

Title: Executive Vice President & General Counsel

Federal Tax Identification

No.: 56-1869557

*[Signature pages to Purchase and Sale Agreement]*

**PURCHASE AND SALE**

**AGREEMENT**

**dated**

**April 16, 2021**

**by and among**

**POP ARMOUR YARDS, LLC, POP 251 ARMOUR YARDS, LLC**

**SELLER**

**and**

**HIGHWOODS REALTY LIMITED PARTNERSHIP,**

**PURCHASER**

Note: Information designated with [●] has been omitted from this exhibit. The filer has determined that such information is not material and would likely cause competitive harm to the filer if publicly disclosed.

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## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”) is dated and made as of April 16, 2021 (the “**Effective Date**”) by and among (i) POP ARMOUR YARDS, LLC, a Delaware limited liability company, and POP 251 ARMOUR YARDS, LLC, a Delaware limited liability company (individually and collectively, “**Seller**”), having an address at 3284 Northside Parkway, Suite 150, Atlanta, GA 30327, and (ii) HIGHWOODS REALTY LIMITED PARTNERSHIP, a North Carolina limited partnership with an office at 3100 Smoketree Court, Suite 600, Raleigh, North Carolina 27604 (“**Purchaser**”).

### RECITALS

A. Seller desires to sell and Purchaser desires to purchase all of Seller’s right, title and interest in and to the Property, upon the terms and conditions set forth in this Agreement.

B. Certain rules of construction for interpreting this Agreement are set forth on **Schedule 1** attached hereto which is hereby incorporated in and constitutes part of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as set forth below.

### ARTICLE I

#### SALE OF THE PROPERTY

**1.1 Sale of Property.** Seller agrees to sell, transfer and assign to Purchaser and Purchaser agrees to purchase, accept and assume from Seller, subject to and in accordance with the terms and conditions of this Agreement, all of Seller’s right, title and interest in and to the following (collectively, the “**Property**”):

(a) **Land.** The following parcels of real property (individually, a “**Tract**”, and collectively, the “**Land**” or “**Tracts**”):

(i) fee simple interest in a tract or tracts of land in Atlanta, Fulton County, Georgia, described on Exhibit A-1, on which is located four (4) office buildings containing approximately 186,779 square feet, in the aggregate, known as “*Armour Yards*” (the “**Armour Yards Tract**”);

(ii) fee simple interest in a tract or tracts of land in Atlanta, Fulton County, Georgia, described on Exhibit A-2, known as “*251 Armour*” (the “**251 Armour Tract**”);

together with all and singular easements, covenants, agreements, rights, privileges, tenements, and hereditaments thereunto now or hereafter belonging or appertaining thereto, and any and all

oil, gas and mineral rights relating to such real estate, water and water rights, ditch and any other rights to use and appropriate water from or relating to such real estate;

(b) **Appurtenances.** All rights, easements, licenses, appurtenances, tenements, hereditaments, privileges and other rights appurtenant to the Land (the “**Appurtenances**”);

(c) **Improvements.** All buildings, structures, facilities, installations, fixtures and other improvements of every kind located on, under or within the Land (the “**Improvements**”);

(d) **Leases.** Seller’s right, title and interest in and to all leases, subleases, licenses or other occupancy agreements including all amendments, affecting the Land and Improvements which are shown on **Exhibit B** attached hereto and any New Leases (as hereinafter defined in **Section 10.3**) (collectively, the “**Leases**”), including any guaranties of such Leases and any security deposits under such Leases;

(e) **Fixtures and Personal Property.** All tangible personal property (the “**Tangible Personal Property**”) upon, under or within the Land or Appurtenances, including specifically, without limitation, fixtures, machinery systems, equipment and other items of tangible personal property owned by Seller and used in connection with the ownership, use, maintenance and operation of the Land or the Improvements (with the Building Systems (as defined below) the “**Fixtures and Personal Property**”). The Fixtures and Personal Property shall include the building management systems, including the software and the associated server (including those utilized in the operation of the HVAC and card access controls), together with any controller or programmable logic control that is part of the base building system of any building, including, but not limited to mechanical, electrical and life safety systems (all collectively referred to herein as the “**Building Systems**”), but only if the Building Systems, or any portion thereof, are located in, and maintained at, any of the buildings located on the Improvements (a “**Building**” or “**Buildings**”), that is, no Building System will be conveyed to Purchaser if it is located and/or maintained off site from the Buildings;

(f) **Service Agreements.** All service agreements listed on **Exhibit C** attached hereto and any New Service Agreements (as defined in **Section 10.3**) (collectively, the “**Service Agreements**”); and

(g) **Intangible Property.** All of the following items, to the extent assignable and without warranty: consents, licenses, approvals, certificates, permits, development rights, warranties, guarantees and floor plans, plans and specifications relating to the Improvements (including but not limited to the plans and specifications, and construction, design or engineering documents for any proposed improvements to any of the Tracts) and the Fixtures and Personal Property (and non-proprietary and non-confidential records owned by Seller and used solely in connection with the operation of the Land and Improvements, as well as all of the names of all of the Buildings (collectively, “**Intangible Property**”).

**1.2 No Representations.** Except for Seller's representations set forth in **Article XIII** or in the Closing Documents (as hereinafter defined in **Section 4.1(b)**), Seller makes no express or implied representation or warranty with respect to the Property, and to the extent permitted by law, excludes and disclaims any statutory or other representations or warranties.

**1.3 No Reliance.** Purchaser agrees that except for Seller's representations set forth in **Article XIII** or in the Closing Documents, Purchaser is not relying on and has not relied on any statements, promises, information or representations made or furnished by Seller or by any real estate broker, agent or any other person representing or purporting to represent Seller but rather is relying solely on its own expertise and on the expertise of its consultants and on the inspections and investigations Purchaser and its consultants has or will conduct.

**1.4 Acceptance of Deeds.** Purchaser hereby acknowledges and agrees that the acceptance of the Deeds (as hereinafter defined in **Section 4.1(b)(i)**) by Purchaser shall be deemed to be full performance and discharge of every agreement and obligation on the part of Seller to be performed under this Agreement except those, if any, which are herein specifically stated to survive delivery of the Deeds. No agreement or representation or warranty made in this Agreement by Seller will survive the Closing and the delivery of the Deeds, unless expressly provided otherwise herein.

**1.5 "AS IS".** EXCEPT AS SPECIFICALLY SET FORTH TO THE CONTRARY IN THIS AGREEMENT OR IN THE CLOSING DOCUMENTS, PURCHASER AGREES (A) TO TAKE THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS" AND (B) THAT NO REPRESENTATIONS OR WARRANTIES ARE MADE OR RESPONSIBILITIES ASSUMED BY SELLER AS TO THE CONDITION OF THE PROPERTY, AS TO THE TERMS OF ANY LEASES OR OTHER DOCUMENTS OR AS TO ANY INCOME, EXPENSE, OPERATION OR ANY OTHER MATTER OR THING AFFECTING OR RELATING TO THE PROPERTY, NOW OR ON THE CLOSING DATE. EXCEPT AS SPECIFICALLY SET FORTH HEREIN AND IN THE CLOSING DOCUMENTS, AND SUBJECT TO AND WITHOUT LIMITING PURCHASER'S RIGHTS UNDER **ARTICLE IX**, PURCHASER AGREES TO ACCEPT THE PROPERTY IN THE CONDITION EXISTING ON THE CLOSING DATE, SUBJECT TO ALL FAULTS OF EVERY KIND AND NATURE WHATSOEVER WHETHER LATENT OR PATENT AND WHETHER NOW OR HEREAFTER EXISTING.

PURCHASER ACKNOWLEDGES THAT AS OF THE CLOSING DATE, PURCHASER WILL HAVE INSPECTED THE PROPERTY AND OBSERVED ITS PHYSICAL CHARACTERISTICS AND CONDITIONS AND WILL HAVE HAD THE OPPORTUNITY TO CONDUCT SUCH INVESTIGATIONS AND STUDIES ON OR OVER THE PROPERTY AND ADJACENT AREAS AS IT DEEMS NECESSARY AND, EXCEPT FOR THE EXCEPTED CLAIMS (AS HEREAFTER DEFINED IN **SECTION 1.6(a)**), HEREBY WAIVES ANY AND ALL OBJECTIONS TO OR COMPLAINTS REGARDING THE PHYSICAL CHARACTERISTICS AND CONDITIONS OF THE PROPERTY AND ITS CONDITION, INCLUDING, BUT NOT LIMITED TO, FEDERAL, STATE OR COMMON LAW-BASED ACTIONS AND ANY PRIVATE RIGHT OF ACTION UNDER STATE AND FEDERAL LAW TO WHICH THE PROPERTY IS OR MAY BE SUBJECT, INCLUDING,



BUT NOT LIMITED TO, CLAIMS RELATING TO CERCLA, RCRA, PHYSICAL CHARACTERISTICS AND EXISTING CONDITIONS, INCLUDING STRUCTURAL AND GEOLOGICAL CONDITIONS, SUBSURFACE SOIL AND WATER CONDITIONS, AND SOLID AND HAZARDOUS WASTE AND HAZARDOUS MATERIALS ON, UNDER, ADJACENT TO OR OTHERWISE AFFECTING THE PROPERTY. PURCHASER FURTHER ASSUMES THE RISK OF CHANGES IN APPLICABLE LAWS AND REGULATIONS RELATING TO PAST, PRESENT AND FUTURE ENVIRONMENTAL CONDITIONS ON THE PROPERTY AND THE RISK THAT ADVERSE PHYSICAL CHARACTERISTICS AND CONDITIONS, INCLUDING THE PRESENCE OF HAZARDOUS MATERIALS OR OTHER CONTAMINANTS, MAY NOT HAVE BEEN REVEALED BY ITS INVESTIGATION.

**1.6 Seller Release from Liability.** Except with respect to the Seller's Representations or as otherwise expressly provided in this Agreement or in the Closing Documents, Purchaser hereby fully and forever waives, and Seller hereby fully and forever disclaims and shall not be liable or bound in any manner by, any and all warranties, guarantees, promises, statements, representations or information of whatever type or kind with respect to the Property, whether express, implied or otherwise, including warranties of fitness for a particular purpose, habitability or use. Purchaser agrees that:

(a) Except for (i) any Claims (as hereinafter defined) arising out of a breach or default by Seller under this Agreement (including a breach of any of Seller's representations and warranties in **Article XIII**) or the Closing Documents, and (ii) any Claims alleging that a default or breach by Seller occurred prior to the Closing (during Seller's respective periods of ownership) under the Leases that results in damages to Purchaser or its Affiliates that were actually incurred prior to the Closing, in each case, subject to **Section 15.15** and **Section 15.21** and of which Purchaser had no knowledge prior to Closing (collectively, "**Excepted Claims**"), Purchaser and anyone claiming by, through or under Purchaser hereby waives its right to recover from and fully and irrevocably releases Seller and Seller's employees, officers, directors, trustees, shareholders, members, partners, representatives, agents, servants, attorneys, Affiliates (as hereinafter defined in **Article VII**), parents, subsidiaries, successors and assigns, and all persons, firms, corporations and organizations in its behalf ("**Released Parties**") from any and all claims, responsibility and/or liability that it may now have or hereafter acquire against any of the Released Parties for any and all costs, losses, claims, liabilities, damages, expenses, demands, debts, controversies, claims, actions or causes of actions (collectively, "**Claims**") arising from or related to the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise, and the presence in the soil, air, structures and surface and subsurface waters of materials or substances that have been or may in the future be deemed to be hazardous materials or otherwise toxic, hazardous, undesirable or subject to regulation and that may need to be specifically treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines or common law), valuation, salability or utility of the Property, condition of title to the Property, compliance with any applicable federal, state or local law, rule or regulations or common law with respect to the Property, or the Property's suitability for any purposes whatsoever, and any information furnished by the Released Parties in connection with this Agreement.

(b) Except with respect to the Excepted Claims, Purchaser agrees that under no circumstances will it make any claim against, bring any action, cause of action or proceeding against, or assert any liability upon, Seller, its agents, consultants, contractors, or any other persons who prepared or furnished any of the Property Documents (as hereinafter defined in **Section 6.1**) (such parties, collectively, the “**Property Documents Preparers**”) as a result of the inaccuracy, unreliability or insufficiency of, or any defect or mistake in, any of the Property Documents (including the negligence of any Property Documents Preparer in connection with the preparation or furnishing of any of the Property Documents), and, except for the Excepted Claims, Purchaser hereby fully and forever releases, acquits and discharges Seller and each Property Documents Preparer of and from any such claims, actions, causes of action, proceedings or liability, whether known or unknown. This release expressly includes claims of which Purchaser is presently unaware or which Purchaser does not presently suspect to exist which, if known by Purchaser, would materially affect Purchaser’s release of Seller.

(c) To the extent permitted by law, Purchaser hereby agrees, represents and warrants that Purchaser realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to Claims which are presently unknown, unanticipated and unsuspected, and Purchaser further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of such realization, and that Purchaser nevertheless hereby intends to release, discharge and acquit the Released Parties from any and all Claims, except for Excepted Claims.

(d) Notwithstanding the foregoing releases of the Released Parties, Purchaser reserves the right to assert as a defense in response to any tort claim that Purchaser did not own the Property at the time of the alleged injury; provided, however, Purchaser shall not have a right to implead Seller or any of the Released Parties in any such action.

**1.7 Purchaser’s Waiver of Objections.** Notwithstanding anything to the contrary herein, Purchaser and Seller acknowledge that any written disclosures or discovery made by Purchaser prior to the Closing shall constitute notice to Purchaser of the matter disclosed or discovered, and Seller shall have no further liability if Purchaser thereafter consummates the transaction contemplated hereby.

**1.8 Survival.** Seller and Purchaser have agreed upon the Purchase Price relating to the Property and other provisions of this Agreement in contemplation and consideration of Purchaser’s agreeing to the provisions of **Sections 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7**, which Sections shall survive the Closing indefinitely and the delivery of the Deed and/or termination of this Agreement and shall not be deemed merged into the Deed or other Closing Documents.

## ARTICLE II

### PURCHASE PRICE

**2.1 Purchase Price.** The purchase price to be paid for the Property is [●] (the “**Purchase Price**”), and shall be paid as follows:

(a) **Assumption of Existing Debt:** Assumption by Purchaser at Closing of all or any portion of the Existing Debt (as defined and determined pursuant to **Section 4.4** hereof), and

(b) **Cash Portion of Purchase Price:** The difference between the Purchase Price and the amount of the unpaid principal balance of the Existing Debt assumed at Closing, to be paid in cash, plus or minus proration adjustments as described herein by wire transfer of federal funds to an account designated by Seller in writing by notice to Purchaser (unless the Closing is conducted through escrow with the Escrow Agent (as hereinafter defined in **Section 3.1**), in which case the funds shall be wire transferred to Escrow Agent) (such amount, as adjusted as provided herein, being referred to herein as the “**Cash Portion of the Purchase Price**”).

The Cash Portion of the Purchase Price will have been deposited by Purchaser with Escrow Agent (as hereinafter defined in **Section 3.1**) no later than the time of Closing by wire transfer of immediately available federal funds. No portion of the Purchase Price shall be allocated, nor attributable, to items of personal property. The Purchase Price must be received by Seller by 2:00 P.M. (Atlanta, Georgia local time) on a particular day in order for the Closing to be deemed to have taken place as of such date.

## **2.2 Sale to Third Party Buyer.**

(a) Purchaser, Seller and Jones Lange LaSalle Americas, Inc. (“**Broker**”) are parties to that certain Exclusive Listing Agreement, to be entered into on or around the Effective Date, to sell the Property to a third-party buyer (the “**Third Party Buyer**”) prior to the Closing Date. Subject to **Section 2.2(c)**, Seller shall have the unfettered right, and will use commercially reasonable efforts for the period beginning on the Effective Date and ending on September 1, 2021, to sell the Property to a Third Party Buyer prior to the Closing Date on terms acceptable to Seller in Seller’s sole and absolute discretion.

(b) In the event Seller receives a bona fide offer to purchase the Property from a Third Party Buyer for contract sales price in excess of [●], and on other terms and conditions acceptable to Seller in its sole and absolute discretion prior to the Closing Date, Seller shall be permitted to negotiate and enter into a definitive written agreement with such Third Party Buyer for the sale of the Property on terms acceptable to Seller in Seller’s sole and absolute discretion (the “**Third Party Buyer PSA**”). Upon the closing of a sale of the Property to a Third Party Buyer pursuant to a Third Party Buyer PSA where the contract sales price is in excess of [●], this Agreement shall automatically terminate and neither Seller nor Purchaser shall have any obligations hereunder except for those which expressly survive termination.

(c) In the event Seller receives a bona fide offer to purchase the Property from a Third Party Buyer for a contract sales price that is equal to or less than [●], and on terms and conditions acceptable to Seller in its sole and absolute discretion prior to the Closing Date, Seller shall promptly notify Purchaser in writing of such offer and the aggregate gross purchase price to be paid by the Third Party Buyer for the Property thereunder (the “**Offer Notice**”). Purchaser shall have five (5) Business Days following receipt of the Offer Notice (the “**Offer Notice**”).

**Response Period**”) to notify Seller in writing whether Purchaser elects or declines to purchase the Property in accordance with the terms of this Agreement. If Purchaser declines to purchase the Property or does not respond prior to the expiration of the Offer Notice Response Period, Seller shall be permitted to negotiate and enter into a Third Party Buyer PSA with such Third Party Buyer. For the avoidance of doubt, Seller may submit multiple Offer Notices to Purchaser prior to the Closing Date.

(d) In the event Seller is successful in selling the Property to a Third Party Buyer following Purchaser’s rejection (or deemed rejection) to purchase the Property pursuant to **Section 2.2(c)**, Seller shall provide to Purchaser a copy of the Third Party Buyer PSA and a copy of the closing statement from such sale or otherwise certify to Purchaser the economic terms of such sale, and (i) provided the terms of the Third Party Buyer PSA are consistent with the terms of the closing statement, Purchaser shall pay to Seller the difference between the contract purchase price under such Third Party Buyer PSA minus [●], by wire transfer of federal funds to an account designated by Seller in writing to Purchaser, within five (5) Business Days following such sale, (ii) Purchaser shall receive a refund of the Deposit *less* if applicable, any portion of the Deposit disbursed to Seller in satisfaction of the obligations of Purchaser set forth in the preceding clause (i), and (iii) this Agreement shall terminate automatically upon the closing of the sale of the Property to the Third Party Buyer and, if applicable, following any payment required pursuant to clause (i) with no further action required by the parties hereto, and both parties will be relieved of any further obligations hereunder, except for the obligations hereunder which expressly survive the termination of this Agreement. For the avoidance of doubt, (x) Seller shall in no event be under any obligation to sell the Property prior to the Closing Date, and (y) Purchaser shall have no liability to Seller under this **Section 2.2** in the event that Seller closes under a Third Party Buyer PSA for the sale of the Property to a Third Party Buyer with a contract sales price equal to or greater than [●].

(e) In the event that the Property is not sold to a Third Party Buyer before the Closing Date pursuant to this **Section 2.2**, Purchaser shall purchase the Property in accordance with the terms of this Agreement, provided, as set forth in **Section 4.4(a)(ii)** below, Purchaser shall have no obligation to purchase the Property after April 1, 2022.

(f) The provisions of this **Section 2.2** shall survive Closing or the other termination of this Agreement.

### **ARTICLE III**

#### **DEPOSIT AND OPENING OF ESCROW**

**3.1 Deposit.** Within one (1) business day following the Effective Date and as a condition precedent to this Agreement becoming a binding agreement between the parties, Purchaser will deposit FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00) (the “**Deposit**”) with Chicago Title Insurance Company, c/o Republic Commercial Title Company, 6111 Peachtree Dunwoody Road, Building D, Atlanta, Georgia 30328, Attention: Andrew Weiss (“Escrow Agent”) by wire transfer of immediately available federal funds and will provide Escrow Agent with a fully completed form W-9 which provides Purchaser’s tax identification

number. If Purchaser fails to deposit the Deposit within the time period provided for above, Seller may at any time following the due date therefor and prior to Escrow Agent's receipt of such Deposit, terminate this Agreement, in which case this Agreement shall be null and void ab initio and in such event Escrow Agent will immediately deliver to Seller all copies of this Agreement in its possession and thereafter neither party shall have any further rights or obligations to the other hereunder, except as otherwise set forth in this Agreement. The Deposit shall be non-refundable to Purchaser except as otherwise expressly set forth in this Agreement.

**3.2 Interest Bearing.** The Deposit shall be held in an interest-bearing escrow account by Escrow Agent in an institution as directed by Seller and reasonably acceptable to Purchaser. All interest and income on the Deposit will be remitted to the party entitled to the Deposit pursuant to this Agreement.

**3.3 Application.** If Closing occurs, the Deposit will be credited against the Purchase Price at Closing. If the Closing does not occur as a result of the Property being sold to a Third Party Buyer pursuant to **Section 2.2(c)**, all or a portion of the Deposit will be credited against Purchaser's payment obligations to Seller (if any) pursuant to **Section 2.2(d)(i)** within five (5) Business Days following the sale of the Property to the Third Party Buyer, and the remainder of the Deposit (if any) shall be delivered to Purchaser. If the Closing does not occur in accordance with the terms hereof other than pursuant to **Section 2.2(c)**, the Deposit shall be delivered to the party entitled to the Deposit, as provided in this Agreement. In all events, the Deposit shall be held in escrow by Escrow Agent, in trust in accordance with the provisions of **Article XIV**.

**3.4 Independent Consideration.** Contemporaneously with the execution and delivery of this Agreement, Purchaser has paid to Seller as further consideration for this Agreement, in cash, the sum of ONE HUNDRED DOLLARS AND 00/100 (\$100.00) (the "**Independent Consideration**"), in addition to the Deposit and the Purchase Price. The Independent Consideration is independent of any other consideration provided hereunder, shall be fully earned by Seller upon the Effective Date hereof, and is not refundable under any circumstances.

## **ARTICLE IV**

### **CONDITIONS TO CLOSING**

**4.1 Conditions to Purchaser's Obligation to Purchase.** Purchaser's obligation to purchase the Property is expressly conditioned upon satisfaction of those conditions set forth below. In the event any of the conditions set forth below are not satisfied at Closing, Purchaser may (i) waive such failed condition and close this transaction as contemplated hereby, or (ii) terminate this Agreement by written notice to Seller on the Closing Date, in which event, the Deposit shall be promptly returned to Purchaser and neither party shall have any obligation to the other hereunder, except for those obligations of Seller or Purchaser which, by their terms, expressly survive Closing. Notwithstanding the foregoing, if any of the conditions to Closing for Purchaser under this **Section 4.1** or any of the conditions to Closing for Seller under **Section 4.2** are not satisfied as a result of a default by Purchaser or Seller, then their respective rights, remedies and obligations shall be governed in accordance with **Article XII**.

(a) **Performance by Seller.** Seller's performance in all material respects of the obligations, covenants and deliveries required of Seller under this Agreement.

Seller is a party to that Agreement Between Seller and Humphries and Company, LLC (the "Contractor") dated September 25, 2020 for services to be rendered by Contractor in connection with the design, construction and development of certain improvements currently being constructed on the 251 Armour Tract (the "**Construction Contract**"). The Seller through the Contractor is currently undertaking the work required to be performed by the Contractor in Construction Contract (the "**Work**"). Seller anticipates that the Work will be completed prior to the Closing. Seller agrees, at Seller's sole cost and expense, to utilize commercially reasonable efforts to complete, or cause the Contractor (and all subcontractors who have contracted to complete any portion of the Work collectively the "**Contractors**") to achieve Final Completion (as defined below) of all of the Work prior to the Closing Date (including the completion any "punch-list items" identified in good faith by Seller pursuant to the terms of the Construction Contract), subject however to delays resulting from the occurrence of a Force Majeure (as defined in Paragraph 15.2.7 hereof). Seller shall complete, or cause the Contractor to complete, the Work, substantially in accordance with the terms and provisions of the Construction Contract in accordance with all laws, rules and regulations governing same. For purposes of this Agreement, (a) the term "**Final Completion**" means that (i) a Certificate of Completion, or similar document issued by the applicable governmental authority, for the building which is the subject of the Work has been issued by the appropriate governmental authority, (ii) Square Feet Studio (the architect for the Work, the "**Architect**") has issued the final Certificate of Payment of all sums due to Contractor pursuant to the Construction Contract, and (iii) Seller has made the final payments due under the Construction Contract to the Contractor (the "**Final Payment**"); provided, however, that this Paragraph shall not require, or be interpreted to require, Seller to make the Final Payment to the Contractor until such time as the Final Payment is actually due and payable to the Contractor pursuant to the provisions of the Construction Contract. Seller shall enforce the terms and conditions of the Contract against the Contractor as reasonably required in order to achieve Final Completion.

Seller hereby agrees to assign to Purchaser the construction warranties relating to the Work, if any, given by the Contractor and all subcontractors in their agreements with Seller or the Contractor (with respect to subcontractors), but only to the extent assignable. In the event the Construction Contract (or any subcontract), or any warranties issued in connection therewith, prevent the assignment of any such construction warranties to Purchaser, Purchaser will either (i) have such Construction Contract (and subcontracts) and/or warranties amended to allow for the assignment of such warranties to Purchaser (provided, Seller shall not be obligated to expend any money to procure such amendments), or (ii) should the amendments referenced in (i) above not be procured, Seller will use commercially reasonable efforts to enforce, in each case at Seller's sole cost and expense, the warranties contained in such Construction Contract (or any subcontract) against the Contractor (or subcontractors) pursuant to the terms thereof, but with respect to the subcontracts, only to the extent enforceable by Seller thereunder.

Upon completion of the Work, Seller will procure signed lien waivers from (i) the Contractor (and cause the Contractor to procure any signed lien waivers from any subcontractor),

(ii) any design professionals and engineers engaged by Seller in connection with the Work, and (iii) any other potential lien claimant listed on any registry setting forth notices of commencement filed by a contractor in connection with the Work ([i] through [iii] being collectively the “Claimants”). The form of lien waiver shall be sufficient to enable the title company to issue to Purchaser a title policy for the Land without exception to any liens which has or may be filed by the Claimants. If Seller is unable to procure signed lien waivers from any potential Claimant as a result of the Work performed by them related thereto and/or any “punch-list items” that will continue beyond Closing, Seller will be deemed to have satisfied this condition if it delivers or causes to be delivered such affidavits or indemnities to, or makes other arrangements with, the title company, in each case sufficient to enable the title company to issue a title policy on the land without exception to any contractor’s, mechanic’s or materialman’s lien other encumbrances which may be filed to protect contractors under Georgia law.

(b) **Seller’s Deliveries.** Seller’s delivery at Closing of the following, all documents to be executed originals and, if applicable, witnessed and properly acknowledged (the **Closing Documents**):

(i) Limited warranty deeds from each entity constituting Seller as to the portion of the Property each such entity owns in the form attached hereto as **Exhibit D**, subject to the following matters (collectively, the **Deed**):

(A) Non-delinquent real property taxes, water and sewer charges and all assessments (governmental and private) and unpaid installments thereof which are not yet due and payable, subject to the provisions of **Section 11.2** below;

(B) Any matter (including any lien, encumbrance or easement) voluntarily imposed or consented to in writing by Purchaser prior to or as of the Closing;

(C) Laws and governmental regulations, including all building codes, zoning regulations and ordinances, that affect the use, operation and maintenance of the Property, and any violations thereof;

(D) Such state of facts as may be shown on an accurate and current survey or by inspection of the Property;

(E) Variations between locations of fences, retaining walls, guy poles, hedges, treelines and shrubs;

(F) Rights of tenants, as tenants only, of the Land and Improvements under the terms and conditions of all Leases with Purchaser hereby acknowledging that Purchaser has examined such Leases; and

(G) the Permitted Exceptions, as defined in **Section 8.1**.

- (ii) Reserved;
- (iii) The Assignment and Assumption Agreement in the form attached as **Exhibit F** (the “**Assignment and Assumption Agreement**”);
- (iv) The Leases, together with any letters of credit held as security deposits under any of the Leases and all instruments reasonably required to transfer such letters of credit to Purchaser;
- (v) The Certification in the form attached hereto as **Exhibit G** that Seller is not a “foreign person”;
- (vi) An Assistant Secretary’s Certificate evidencing the authority of individuals to execute any instruments executed and delivered by Seller at Closing, together with a certificate of good standing of Seller;
- (vii) The Bill of Sale in the form attached hereto as **Exhibit H**;
- (viii) A closing statement in form and content satisfactory to Seller and Purchaser (the “**Closing Statement**”) signed by Seller;
- (ix) All keys and lock combinations for the Property and all leasing and other files relating to the Property and all other licenses, certificates, permits, plans, books, records and reports and other materials that comprise the Intangible Property, to the extent such items are in Seller’s actual possession or control;
- (x) At least three (3) business days prior to closing Seller must have delivered to Purchaser original tenant estoppel certificates executed by tenants under existing Leases from the following tenants of the Improvements: (1) Coyote Logistics LLC, (2) AGS LLC, and (3) GSMA LTD.(collectively, the “**Major Tenants**”) and from a sufficient number of other tenants of the Improvements (the “**Minor Tenants**”) so that estoppel certificates are received from tenants leasing no less than seventy percent (70%) of the aggregate area leased in the Improvements, exclusive of any parking leases (the “**Required Tenant Estoppel Certificates**”). Each Required Tenant Estoppel Certificate (1) will be on the form attached to the applicable Lease, if any, or if there is no form attached to the Lease, then will be substantially on the form attached hereto as **Exhibit I** (provided, however, if any Lease limits the provisions to be included in any estoppel certificate, the form shall be modified accordingly); and (2) will not have been modified in any substantive, adverse manner. The addition of a knowledge qualification or other non-material change to an estoppel certificate will not cause such tenant estoppel certificate to fail to satisfy the requirements for an acceptable Required Tenant Estoppel Certificate. Seller, at its sole option, may elect to satisfy part of the requirements under this **Section 4.1(b)(x)** by delivery of a Seller estoppel certificate in the form attached hereto as **Exhibit N** (a “**Seller Estoppel Certificate**”) for up to ten percent (10%) of the leased square footage of the Improvement leased by Minor Tenants whose Required Tenant Estoppel Certificates have not been received by Closing. Any Seller Estoppel



Certificate delivered by Seller to Purchaser shall be subject to all terms and conditions of **Sections 15.15** and **15.21** of this Agreement. If Seller or Purchaser subsequently obtains a Required Tenant Estoppel Certificate meeting the requirements of this **Section 4.1(b)(x)** hereof, from a tenant for which Seller has delivered a Seller Estoppel Certificate, the delivered Seller Estoppel Certificate will be null and void, and Purchaser will accept the Required Tenant Estoppel Certificate in its place. In the event Seller fails, for any reason, to deliver to the Purchaser the required number of Required Tenant Estoppel Certificates in accordance with the provisions of this **Section 4.1(b)(x)** prior to the Closing, then Seller will not be deemed in default hereunder, and Purchaser's sole remedy will be to terminate this Agreement, whereupon the Title Company will return the Deposit to Purchaser, and both parties will be relieved of any further obligations hereunder, except for the obligations hereunder which expressly survive Closing or other termination of this Agreement. Seller will deliver to Purchaser a draft of each Required Tenant Estoppel Certificate for Purchaser's review and approval prior to Seller's delivery thereof to the tenants. Seller agrees to request a Tenant Estoppel Certificate from each of the tenants under the Leases and to diligently pursue the execution and delivery thereof, provided, Seller shall not be required to pay any money or sue any tenant to procure a Required Tenant Estoppel Certificate. If Seller has not delivered the Required Tenant Estoppel Certificates prior to Closing, Seller may, at Seller's option, elect to: (i) adjourn the Closing for a period not to exceed fifteen (15) business days to allow Seller to continue its efforts to obtain the Required Tenant Estoppel Certificates to satisfy. In the event after adjourning the Closing as set forth above, Seller fails to provide a sufficient number of Required Tenant Estoppel Certificates, Purchaser's sole remedy shall be to either (Y) waive the Estoppel Requirement and proceed to Closing without any abatement in the Purchase Price, or (Z) terminate this Agreement and receive a refund of the Deposit.

(xi) Reserved;

(xii) A Tenant Notice Letter in the form attached hereto as **Exhibit M** executed by Seller to be mailed out by Purchaser upon Closing;

(xiii) Reserved;

(xiv) Reserved;

(xv) Reserved;

(xvi) Such documents of Seller which authorize the sale of the Property to Purchaser and other documents as all are reasonably required by the Title Company and reasonably approved by Seller;

(xvii) A lien waiver executed by the Broker on a customary form, in a form acceptable to the Title Company;

(xviii) An owner's affidavit in the form attached hereto as **Exhibit T** in order to cause the Title Company to issue to Purchaser an owner's title insurance policy

or policies in the form and condition required by this Agreement (but all such affidavits, certificates or other documents must be reasonably acceptable to Seller);

(xix) A certificate or affidavit as is required under applicable provisions of Georgia law to assure Purchaser and Title Company that Georgia withholding tax is not required; and

(xx) Such additional assignments, instruments and documents, including title affidavits, certificates or other documents customarily required by the Title Company as defined in Section 8.1 hereof on Seller's and Title Company's customary forms, appropriate to be executed and delivered by Seller as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Agreement provided the same are commercially reasonable and do not require disclosure of proprietary information.

(c) **Seller's Representations and Warranties**. The representations and warranties of Seller set forth in **Section 13.1** being true and correct in all material respects as of the Closing.

(d) **No MAE on Assumption of Existing Debt**. An Existing Debt Assumption and Release shall be executed and delivered by the applicable Existing Debt lender and delivered at Closing, which such Existing Debt Assumption and Release shall not impose any new or different economic requirement or financing term on Purchaser as the new borrower at variance with those imposed by the Existing Debt documents binding as of the date hereof on Seller as the existing borrower, which has a material adverse effect on Purchaser in the aggregate in the context of the transactions under this Agreement (excluding any (y) new terms required by Purchaser's 1031 exchange or reverse 1031 exchange and (z) any adjustments to the amounts of the reserves required by the applicable Existing Debt lender using commercially reasonable lending standards) (the "**Debt MAE Condition**").

**4.2 Conditions to Seller's Obligation to Sell**. Seller's obligation to sell the Property is expressly conditioned upon satisfaction of those conditions set forth below. In the event any of the conditions set forth below are not satisfied at Closing, Seller may (i) waive such failed condition and close this transaction as contemplated hereby, or (ii) terminate this Agreement by written notice to Purchaser on the Closing Date, in which event, the Deposit shall be promptly returned to Purchaser and neither party shall have any obligation to the other hereunder, except for those obligations of Seller or Purchaser which, by their terms, expressly survive Closing. Notwithstanding the foregoing, if any of the conditions to Closing for Seller under this **Section 4.2** or any of the conditions to Closing for Purchaser under **Section 4.1** are not satisfied as a result of a default by Purchaser or Seller, then their respective rights, remedies and obligations shall be governed in accordance with **Article XII**.

(a) **Performance by Purchaser**. Purchaser's performance in all material respects of the obligations, covenants, and deliveries required of Purchaser under this Agreement.

(b) **Receipt of Purchase Price.** Receipt by Seller (or as Seller may direct) of the Purchase Price in the manner provided in this Agreement.

(c) **Purchaser's Deliveries.** Delivery at Closing of the following, all documents to be executed originals and, if applicable, witnessed and properly acknowledged:

- (i) The Assignment and Assumption Agreement;
- (ii) The Closing Statement (signed by Purchaser), with a copy thereof to be delivered to Seller;
- (iii) A Tenant Notice Letter in the form attached hereto as **Exhibit M** executed by Purchaser;
- (iv) The certificate of any permitted assignee required under **Section 15.7**;
- (v) Evidence of the authority and the incumbency of any individuals to execute any instruments executed and delivered by Purchaser at Closing, together with a certificate of good standing of Purchaser;
- (vi) All Existing Debt Fees and all documents, instruments, guaranties and other items or funds required by each Existing Debt lender to cause the Existing Debt Assumption and Release;
- (vii) Reserved;
- (viii) Reserved;
- (ix) Reserved;
- (x) Such documents of Purchaser which authorize the purchase of the Property from Seller and other documents as all are reasonably required by the Title Company; and
- (xi) Such additional documents and instruments appropriate to be executed and delivered by Purchaser as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Agreement, provided the same are commercially reasonable and do not require disclosure of proprietary information.

(d) **Purchaser's Representations and Warranties.** The representations and warranties of Purchaser set forth in **Section 13.3** being true and correct in all material respects as of Closing.

**4.3 No Financing Contingency.** Subject to **Section 4.4**, it is expressly understood and acknowledged by Purchaser that this Agreement and Purchaser's obligations hereunder are

not contingent or conditioned upon obtaining a commitment for or closing any financing and the failure of Purchaser to obtain or close any financing for any reason whatsoever, shall not be a failure of condition to Purchaser's performance hereunder. In addition, Seller will have no obligation to or privity with any lender to Purchaser.

#### **4.4 Existing Debt Assumptions.**

(a) Purchaser shall assume the indebtedness listed on **Exhibit L** (the "**Existing Debt**") at Closing and cause each Existing Debt lender to release Seller and all Existing Debt guarantors and indemnitors who are affiliated with Seller from all liability under the Existing Debt documents (collectively, the "**Existing Debt Assumption and Release**"). Purchaser and Seller acknowledge and agree that Seller's marketing of the Property pursuant to **Section 2.2** will include assumption of the Existing Debt by any prospective Third Party Buyer. Purchaser's pursuit of the assumption of the Existing Debt under this **Section 4.4** using commercially reasonable good faith efforts shall start immediately upon the earliest to occur of: (i) December 31, 2021, if Seller has not entered into a Third Party Buyer PSA which is in full force and effect on such date, (ii) if any such Third Party PSA is in effect on December 31, 2021, the date thereafter that Seller provides Purchaser with written notice that such Third Party Buyer PSA has been terminated, provided, if the Third Party Buyer PSA is in effect on December 31, 2021 and has not been terminated by January 31, 2022, Purchaser shall have no obligation to purchase the Property under this **Section 4.4(a)(ii)** after April 1, 2022, or (iii) the date Seller provides Purchaser with written notice that Seller has ceased marketing the Property for sale to a Third Party Buyer pursuant to **Section 2.2**, provided, such date shall be no earlier than September 1, 2021 (any of (i) through (iii) being referred to herein as the "**Assumption Start Date**").

(b) Purchaser acknowledges that it has reviewed the provisions of Existing Debt relating to the assumptions of the Existing Debt and agrees, beginning on the Assumption Start Date, to use diligent and commercially reasonable efforts to promptly satisfy all conditions that each of the Existing Debt lenders, any servicer and/or the rating agencies may require in order to cause the Existing Debt Assumption and Release. Without limiting the foregoing, Purchaser hereby agrees (i) to cooperate with all reasonable requests made by or on behalf of each of the Existing Debt lenders, any servicer and/or any rating agencies for information regarding Purchaser and its Affiliates as potential new guarantors or indemnitors of the Existing Debt (including providing all financial statements, organizational documents, background information regarding Purchaser and its Affiliates and other information and documents requested by each of the Existing Debt lenders, any servicer and/or any rating agencies and/or required to be provided relating to the Existing Debt assumption, (ii) to not request or negotiate any amendments or modifications to the Existing Debt except for those provisions which are personal to the identity of the borrower and necessary to consummate the Existing Debt Assumption and Release, (iii) to execute and to cause its Affiliates to execute all documentation reasonably requested by the Existing Debt lenders, any servicer and/or the rating agencies and/or required to be executed relating to the Existing Debt assumption, (iv) to pay all fees and expenses relating to the Existing Debt assumption, (v) propose new guarantor(s) or indemnitor(s) (consisting of Purchaser's general partner and/or its Affiliates acceptable to the Existing Debt

lenders and the rating agencies, to enter into replacement guaranties and indemnities in accordance with the Existing Debt documents and (vi) to otherwise cause all other Existing Debt Assumption and Release requirements to be satisfied. Seller agrees to reasonably cooperate with Purchaser (provided that Seller shall have no obligation to incur any liability or expense other than the fees of its own attorneys) to seek and obtain the Existing Debt Assumption and Release.

(c) Without limiting Purchaser's obligations under **Section 4.4(b)**, as soon as reasonably practicable after the Assumption Start Date but in any event within five (5) business days (the "**Existing Debt Application Submittal Deadline**"), Purchaser shall, at its sole cost and expense submit to the Existing Debt lenders, with a copy to Seller, complete applications required by each of the Existing Debt lenders to obtain the Existing Debt Assumption and Release, together with all documents and information (exclusive of confidential and proprietary information) required in connection therewith (collectively, the "**Existing Debt Assumption Application**"). As part of the Existing Debt Assumption Application, Purchaser shall prepare and deliver to each Existing Debt lender (with a copy to Seller) on or before the Existing Debt Application Submittal Deadline a written notice setting forth the terms of the transfer of the Property to Purchaser pursuant to this Agreement (the "**Existing Debt Assumption Notice**"), together with (x) all such information concerning the transfer, Purchaser and the new guarantor or indemnitor as each of the Existing Debt lenders shall require in evaluating an initial extension of credit, which information shall include a fully executed copy of this Agreement and all amendments and assignments thereto, as well as the sources and uses of funds or closing or settlement statement relating to the transfer to the extent available to Purchaser and (y) a payment of a non-refundable processing fee, if any, as required by each of the Existing Debt lenders. Upon the Existing Debt Lender's receipt of (i) the Existing Debt Assumption Application (including the Existing Debt Assumption Notice) and all information submitted therewith in accordance with this Section and (ii) the applicable processing fees, Purchaser shall submit same to Seller. Purchaser acknowledges and agrees that Purchaser is solely responsible for the preparation of the Existing Debt Assumption Application (including the Existing Debt Assumption Notice), the collection of all materials, documents, certificates, financial statements, signatures, and other items required to be submitted in connection with the Existing Debt Assumption Application.

(d) Purchaser shall (and shall cause any new guarantor or indemnitor to) use its diligent and commercially reasonable efforts to promptly satisfy and comply with the Existing Debt Assumption and Release requirements and any and all other assumption guidelines of an Existing Debt lender in connection with the Existing Debt Assumption and Release. Purchaser shall be responsible, at its sole cost and expense, for correcting and re-submitting any deficiencies noted by Seller, any of the Existing Debt lenders or servicer in connection with the Existing Debt Assumption Application (including the Existing Debt Assumption Notice) no later than three (3) days after notification from such Existing Debt lender or servicer of such deficiency. Purchaser shall provide Seller with a copy of any correspondence from any of the Existing Debt lender or servicer with respect to the Existing Debt Assumption Application and/or the Existing Debt Assumption and Release no later than three (3) days after receipt of such correspondence from such Existing Debt lender or servicer. Purchaser agrees promptly to (and shall cause any new guarantor or indemnitor to promptly to) deliver to each of the Existing Debt

lenders all documents and information required by the Existing Debt documents, and such other information or documentation as any of the Existing Debt lenders or servicer may reasonably request, including financial statements, income tax returns and other financial information for Purchaser and any new guarantor or indemnitor.

(e) Purchaser shall pay all fees, costs and expenses to be paid to or on behalf of each Existing Debt lender, any servicer and/or any rating agency(ies) and to their agents, attorneys or other representatives, in connection with seeking and obtaining the Existing Debt Assumption and Release, including all transfer, processing, application, servicing and/or assumption fees, additional reserves and escrows, title and UCC insurance fees, endorsement fees, rating agency fees, non-refundable deposits and reasonable legal fees and disbursements, including the payment of fees and expenses, but exclusive of legal fees incurred by Seller in connection with any legal advice received by Seller related to any loan assumption and release document required to be executed by Seller and/or its Affiliates in connection with the Existing Debt lenders' approval of the assignment to and assumption by Purchaser of the Existing Debt (collectively, "**Existing Debt Fees**") when due, whether before, at or after the Closing and whether or not the Closing occurs, imposed or charged by any of the Existing Debt lenders, servicer, the rating agencies and their respective counsel in connection with the Existing Debt Assumption Application and the Existing Debt Assumption and Release, and Seller shall have no obligation to pay any Existing Debt Fees.

(f) If the Existing Debt Assumption and Release occurs at Closing pursuant to this **Section 4.4(f)**, at Closing, Purchaser shall be responsible for (i) replacing (and increasing to the extent required by any of the Existing Debt lenders) all reserves, impounds and other accounts required to be maintained in connection with the Existing Debt, to the extent such existing reserves, impounds and other accounts are not assigned to Purchaser and (ii) funding any additional reserves, impounds or accounts reasonably required by the Existing Debt lenders in connection with the Existing Debt. Except as provided in **Section 4.1(d)**, (i) neither obtaining the Existing Debt Assumption and Release approval, nor the occurrence of the Existing Debt Assumption and Release on the Closing Date, shall be a condition to Purchaser's obligation to consummate the transactions described herein, and (ii) Purchaser shall have no right to extend the Closing Date on account of Purchaser's failure to obtain the Existing Debt Assumption and Release approval or the failure of the Existing Debt Assumption and Release to occur on the Closing Date.

(g) The provisions of clauses **(d)**, **(e)**, **(f)** and this **(g)** of this **Section 4.4** shall survive the Closing or termination of this Agreement.

## ARTICLE V

### THE CLOSING

**5.1 Date and Manner of Closing.** The closing of the transaction contemplated by this Agreement (the "**Closing**") will occur through an escrow with Escrow Agent, no later than 2:00 P.M. Atlanta, Georgia local time on the date that is sixty (60) days following the Assumption Start Date (the "**Closing Date**") or such earlier or later date as is agreed by the

parties in writing, provided, in the event that either of the Existing Debt lenders is not ready to close the Existing Debt Assumption and Release related to their Existing Debt, notwithstanding that Purchaser has complied in good faith with all of its obligations hereunder with respect to the Existing Debt Assumption and Release set forth in **Section 4.4** hereof, Purchaser shall have the one-time right to extend the Closing Date for up to fifteen (15) days provided Purchaser has given Seller written notice of Purchaser's desire for such extension no less than five (5) business days prior to the then scheduled Closing Date. Notwithstanding the foregoing, Seller shall have the right to extend the Closing Date for up to fifteen (15) business days in order to obtain the Required Tenant Estoppel Certificates by delivering written notice of such extension to Purchaser prior to the original Closing Date.

**5.2 Closing.** On the day prior to the Closing Date, Purchaser and Seller shall execute a settlement statement generated by Escrow Agent. Subject to satisfaction of the conditions to Closing set forth in **Article IV** hereof, Escrow Agent will (i) not later than 2:00 P.M. Atlanta, Georgia local time on the Closing Date deliver the Purchase Price to Escrow Agent for the benefit of Seller in the form of a wire transfer of immediately available funds, and (ii) release for recordation the Deed and such other documents as may be recorded.

## **ARTICLE VI**

### **DUE DILIGENCE PERIOD EXPIRED; DEPOSIT NON-REFUNDABLE**

**6.1 Approval of Documents and Materials.** Purchaser acknowledges that Seller has made available to Purchaser the documents (i) which pertain to the Property, (ii) are located at the Property or are in any property manager's office and (iii) are non-proprietary and not privileged, available at the Property for review and copying by Purchaser at Purchaser's sole cost and expense (the "**Property Documents**"), in each case, in accordance with the Site Access and Indemnification Agreement (as defined in **Article VII** hereof). The Property Documents include, but have not been limited to:

- (a) Copies of the Leases and all amendments;
- (b) Copies of the Service Agreements;
- (c) Income and expense information for the period commencing January 1, 2018 through December 31, 2020 pertaining to the operation of the Property;
- (d) A current rent roll for the Property; and
- (e) A copy of title information and the surveys.

**6.2 Reliability of Information.** The Property Documents and other information provided by Seller and/or its agents to Purchaser under the terms of this Agreement and under the Site Access and Indemnification Agreement are for informational purposes only. Subject to Seller's Representations (as hereinafter defined in **Section 13.1**), Purchaser (a) is not in any way entitled to rely upon the accuracy or completeness of the information within the Property

Documents and other information provided by Seller and/or its agents and (b) Purchaser will rely exclusively on its own inspections and consultants with respect to all matters Purchaser deems relevant to its decision to acquire the Property. The provisions of this **Section 6.2** shall survive the Closing and the delivery of the Deed.

**6.3 Due Diligence Period Expired.** Purchaser acknowledges that this Agreement does not provide a due diligence period, and that Purchaser has thoroughly reviewed and is satisfied in all respects with the Property Documents, other materials pertaining to the Property and is fully satisfied with all aspects of the Property for purchase under this Agreement including the results of all such studies, tests and inspections that Purchaser deems appropriate to analyze the feasibility of the acquisition and ownership of the Property and to determine, in Purchaser's sole and absolute discretion, that the Property is suitable for acquisition by Purchaser.

**6.4 Deposit Non-Refundable to Purchaser.** Purchaser has approved acquisition of the Property and to have waived any right to terminate this Agreement as a result of any due diligence inspections of the Property, except as may be otherwise specifically provided for in this Agreement. The Deposit is non-refundable to Purchaser except as otherwise expressly set forth in this Agreement.

## **ARTICLE VII**

### **INSPECTIONS**

Either Purchaser or one of its designated Affiliates (as hereinafter defined) has previously executed and delivered a separate site access and indemnification agreement to Seller, a copy of which is attached hereto as **Exhibit K** (the "**Site Access and Indemnification Agreement**"). The terms of such Site Access and Indemnification Agreement are hereby extended through the Closing or other termination of this Agreement. As used herein, "**Affiliate**" means, with respect to a person, any other person controlling, controlled by or under common control with such person.

## **ARTICLE VIII**

### **TITLE AND SURVEY; REA**

**8.1 Approval of Title Documents and Survey.** Purchaser has approved the status of title to the Property after obtaining commitments for title insurance ("**Title Commitments**") for the Land and the Leasehold Parcels from Chicago Title Insurance Company (the "**Title Company**") and any recertification of the surveys delivered by Seller to Purchaser (the "**Current Surveys**") or new surveys that Purchaser has elected to obtain with respect to the Land and the Leasehold Parcels (the "**New Surveys**"). All of the matters disclosed on the Title Commitments and New Surveys, together with and all other matters otherwise affecting title to the Land and Leasehold Parcels will constitute the "**Permitted Exceptions**".

**8.2 Title Updates.** If any supplemental title report or update issued subsequent to the Effective Date contains exceptions other than those in the Title Commitments or New Surveys



and which have a material adverse effect on the use, value or operation of the Property (“**New Exceptions**”), Purchaser will be entitled to object to the New Exceptions by delivery of a notice of objections to Seller on or before the date that is five (5) days following Purchaser’s receipt of such supplement or update. If Purchaser fails to deliver to Seller a notice of objections on or before such date, Purchaser will be deemed to have waived any objection to the New Exceptions, and the New Exceptions will be included as Permitted Exceptions. Seller will have not less than ten (10) days from the receipt of Purchaser’s notice (and, if necessary, Seller may extend the Closing Date to provide for such ten (10) day period and for five (5) days following such period for Purchaser’s response), within which time Seller may, but is under no obligation to, remove the objectionable New Exceptions, provided, Seller will be required to remove prior to or at Closing all monetary liens constituting New Exceptions. If, within the ten (10) day period, Seller or Title Company does not (or does not agree to) remove the objectionable New Exceptions (provided Seller will remove all monetary liens), then Purchaser may terminate this Agreement upon notice to Seller no later than five (5) days following expiration of the (10) day cure period. If Purchaser terminates this Agreement, the Deposit will be promptly returned to Purchaser, and the parties shall be released from all further obligations under this Agreement (except those that expressly survive termination of this Agreement). If Purchaser fails to terminate this Agreement in the manner set forth above, the New Exceptions (except those Seller and/or Title Company has removed or agreed to remove) will be included as Permitted Exceptions.

**8.3 Encumbrances.** The Existing Debt is a Permitted Exception hereunder and may not be objected to. The existence of mortgages, liens, or other encumbrances not permitted hereby (and which are not relating to the Existing Debt) shall not be objections to title provided that properly executed instruments in recordable form necessary to satisfy the same are delivered to the Title Company at the Closing together with recording and/or filing fees (or an appropriate credit against the Purchase Price given for such fees), and Purchaser and Seller agree that such mortgages, liens or other encumbrances may be paid out of the cash consideration to be paid by Purchaser. Seller will be required to remove prior to or at Closing all monetary liens, including mechanics’ liens and material men’s liens (but only to the extent Seller would be liable for the payment of the underlying obligation as the contracting party), judgment liens and tax liens encumbering the property (exclusive of liens securing the Existing Debt), including those monetary liens constituting New Exceptions (collectively, “**Liens**”), (i) if such Liens were caused solely by the actions or omissions of Seller or any of its Affiliates, or (ii) with respect to all other Liens other than those described in the foregoing clause (i), up to a maximum amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) in the aggregate.

**8.4 Notice of Commencement.** Work performed or to be performed by a tenant under a Lease, or on behalf of a tenant or subtenant under a Lease, affecting the Property (in each case, as a result of the tenant contracting for such work) will not be Seller’s responsibility. Accordingly, neither notices of commencement of work to be performed by contractors or subcontractors engaged by such tenants or subtenants (but not Seller) nor any liens filed with respect to any such work performed will constitute New Exceptions, and the same, if any, shall constitute Permitted Exceptions. In addition, any ongoing work being performed by Seller shall not constitute New Exceptions and the costs and risks of such work shall be allocated between Purchaser and Seller in accordance with **Section 10.5** below.

**8.5 Seller's Failure to Remove.** Seller shall have the right to extend the Closing Date for up to thirty (30) days in order to remove any objectionable Exception or New Exception that Seller agreed in accordance with the terms of this Article to remove by delivering written notice of such extension to Purchaser prior to the original Closing Date. If Seller fails on or before Closing (as may be extended) to remove any objectionable Exception or New Exception that Seller agreed in accordance with the terms of this Article to remove, then Purchaser may elect either to close with no adjustment to the Purchase Price or exercise its remedies pursuant to **Section 12.2**.

## ARTICLE IX

### RISK OF LOSS

**9.1 Casualty.** If the Property is damaged or destroyed by fire or other casualty after the Effective Date and prior to the Closing then promptly after Seller becomes aware of the damage or destruction Seller will notify Purchaser thereof (the "**Damage Notice**"). If the cost of repair is less than two percent (2%) of the Purchase Price, repairs will, in Seller's reasonable estimation, take less than six (6) months to effectuate, and no Major Tenant has the right to terminate its Lease as a result of such "minor casualty" which has not been waived, Closing will proceed in accordance with the terms of this Agreement for the full Purchase Price, notwithstanding the damage or destruction; provided, however, that Seller will pay or assign to Purchaser at Closing all insurance proceeds, if any, resulting from such casualty damage and pay to Purchaser any deductible due under Seller's insurance policy(ies) less the costs of collection. If the cost of repair is equal to or greater than two percent (2%) of the Purchase Price, if a Major Tenant has the right to terminate its Lease as a result of such casualty which has not been waived, if repair will, in Seller's reasonable estimation, take six (6) months or longer to effectuate, or if any portion of the loss is uninsured and Seller does not elect to credit Purchaser for such uninsured portion, Seller or Purchaser may elect to terminate this Agreement by delivering written notice to the other party within ten (10) days after the date of the Damage Notice and determination of the repair amount (and Closing will be extended as needed to provide for such 10-day period), in which event the Deposit will be refunded. If neither party terminates this Agreement within the 10-day period, Closing will proceed in accordance with the terms of this Agreement for the full Purchase Price, notwithstanding the damage or destruction and Seller will pay or assign to Purchaser at Closing all insurance proceeds, if any, resulting from the casualty and credit to Purchaser any applicable deductible amounts under the insurance policies.

**9.2 Condemnation.** If, after the Effective Date and prior to the Closing, a condemnation or eminent domain proceeding ("**Taking**") is commenced against the Property, Seller will give Purchaser notice within ten (10) days after Seller receives notice that the proceeding has commenced.

(a) If the Taking is a Material Taking (as hereinafter defined), Purchaser may, by written notice to Seller ("**Taking Notice**") elect to terminate this Agreement, which Taking Notice shall be sent no later than thirty (30) days after receipt of Seller's notice, time being of the essence, or such sooner period of time if the Closing is less than thirty (30) days after receipt of

Seller's notice. For purposes of this Agreement, a "**Material Taking**" shall be a Taking which(i) has, or would have, the effect of reducing the value of the Property which has been acquired or threatened to be acquired by the powers of eminent domain by greater than two percent (2%) of the Purchase Price, (ii) is reasonably anticipated to materially and permanently prevent access to the condemned Tract, (iii) results in the condemned Tract materially violating or failing to comply with any laws, applicable zoning ordinances (including, without limitation, parking), after the condemned Tract has been restored to an operable condition after the completion of the condemnation and any work to be completed by the condemning authority as a result of such condemnation, or (iv) results in any Major Tenant having the right to terminate its applicable Lease as the result of the condemnation of such Tract, and such Tenant has not waived its rights with respect thereto;

(b) If the Taking is not a Material Taking or if it is a Material Taking and Purchaser does not give Seller a Taking Notice in accordance with **Section 9.2(a)**, Purchaser will complete the transaction contemplated hereby without abatement or reduction in the Purchase Price, and Seller shall assign to Purchaser all rights, if any, to receive the award payable as a result of such proceeding.

## ARTICLE X

### OPERATION OF THE PROPERTY

**10.1 Operations.** From the Effective Date through the Closing Date, Seller will continue to operate and maintain the Property consistent with its standards of operation and maintenance prevailing immediately prior to the Effective Date, Seller shall not be obligated, or have the authority, to make any commitment with respect to capital expenditures, except (i) as set forth in **Section 10.3** below, (ii) as Landlord may be obligated to make under the terms of any Lease after a demand by a tenant therefor, and (iii) as may be required in emergency situations to prevent personal injury or property damage, and under no circumstances will Seller be in breach of its obligations under this Agreement for failing to authorize or commence any such capital expenditures.

**10.2 Tenant Defaults; Other Proceedings.** Seller will not institute any proceedings against a tenant without Purchaser's prior approval which approval shall not be unreasonably withheld, conditioned or delayed, except that Seller may institute a proceeding for delinquent rent without Purchaser's consent, provided it is brought within six (6) months of the Closing Date and does not seek eviction of tenant. Purchaser will be deemed to have approved commencement of proceedings if Purchaser fails to respond within three (3) business days after Purchaser receives written notice of Seller's intent to commence proceedings. Notwithstanding any of the foregoing to the contrary, Seller shall have the right to prosecute (with Purchaser's reasonable cooperation after Closing, at no expense or liability to Purchaser) and retain any recovery in connection with any tax appeals or contests with respect to taxes assessed against the Property for tax periods prior to Closing provided such recovery action will not result in a deferral of taxes or reassessment against the Property.

**10.3 New Services Agreements / New Leases / New Tract Improvements.** Seller will not, without first obtaining Purchaser's consent (not to be unreasonably withheld, conditioned or delayed) enter into new service agreements or amend existing Service Agreements ("**New Service Agreements**") unless the agreement is a New Service Agreement for usual and customary property management matters, which can be terminated at Closing. Furthermore, Seller will not (a) enter into new leases or amend existing Leases with respect to the Property ("**New Leases**"), or (b) commence any improvements on any Tract not already commenced as of the Effective Date (whether in connection with a New Lease or otherwise a "**New Tract Improvement**") if any one New Tract Improvement is reasonably expected to cost in excess of \$25,000, or all such New Tract Improvements are reasonably expected to cost in the aggregate more than \$100,000 without first obtaining Purchaser's consent (not to be unreasonably withheld, conditioned or delayed). Purchaser will be deemed to have consented to any proposed New Service Agreement, New Lease or New Tract Improvements unless Seller receives written notice from Purchaser, specifically setting forth the areas of objection within three (3) business days following receipt by Purchaser of the proposed New Service Agreement, New Lease or New Tract Improvements.

**10.4 Tenant Inducement Costs / Tract Improvements.** Upon Closing, Purchaser will assume all liability for, and shall thereafter pay (or reimburse Seller to the extent Seller has paid prior to Closing), all amounts (including (i) tenant concessions, tenant improvement costs, free rent and leasing commissions or fees collectively "**Tenant Inducement Costs**") and (ii) New Tract Improvement costs) either of which is due under or in connection with, any New Service Agreement, New Lease or any New Tract Improvement, provided, any New Service Agreements, New Leases or New Tract Improvement have been approved (or deemed approved) by Purchaser pursuant to **Section 10.3** above, and provided to the extent any portion of the term of a New Lease (for which (i) such tenant is paying full rent and (ii) Tenant Inducement Costs are due thereunder) occurs prior to the Closing Date, the amount of the Purchase Price will be reduced by a pro-rata share of such Tenant Inducement Costs based upon the percentage of such rent-paying term (exclusive of any renewal option) which occurs prior to the Closing Date compared to the portion of such rent-paying term (exclusive of any renewal option) which is scheduled to occur after the Closing Date. Seller shall be responsible for all Tenant Inducement Costs, and the costs of improvements to a Tract not constituting a New Tract Improvement (an "**Existing Tract Improvement**"), which are payable by the Seller (pursuant to the Leases or a contract for Existing Tract Improvements (without giving effect to any unexercised option, extension or similar right as of such date) after Closing as set forth in any Lease, or any contract for an Existing Tract Improvement in existence as March 17, 2021 which have not been approved by Purchaser, all of which are set forth on **Exhibit O** attached hereto, and Purchaser shall receive a credit at Closing for all unpaid Tenant Inducement Costs with respect to such Leases. Purchaser shall be solely responsible for all Tenant Inducement Costs relating to Leases or New Leases (including, without limitation, any amendments or exercises of options to extend Leases by tenants thereunder after March 17, 2021) and New Tract Improvements (provided such New Leases and New Tract Improvements have been approved (or are deemed approved) by Purchaser pursuant to Section 10.3) executed or occurring after March 17, 2021).

**10.5 Current Construction Work.** The only construction work being performed at the Property as of the Effective Date is the Work described in **Section 4.1(a)**, and Seller will complete the Work as set forth therein.

## ARTICLE XI

### CLOSING PRORATIONS AND ADJUSTMENTS; PAYMENT OF CLOSING COSTS

**11.1 General.** Seller shall pay (i) all of Seller's legal fees, expenses Seller might incur in connection with its election to remove objections to title, and any apportionment to be made pursuant to this **Article XI**, (ii) the costs of curing all title objections for which Seller is responsible under this Agreement, and (iii) one-half of any escrow fees charged by the Escrow Agent. Purchaser shall pay (a) the Existing Debt Fees, (b) all applicable transfer taxes, documentary stamp taxes and similar charges relating to transfer of the Property, (c) the fees of any counsel representing Purchaser in connection with this transaction, (d) the fees for recording the Deed, (e) the premiums for any title insurance (including endorsements) requested by Purchaser or its lender, (f) the cost of Purchaser's inspections of the Property, (g) the cost of any New Surveys, including updates or revisions necessary to comply with the requirements of Purchaser or its lender, (h) any costs to finance its purchase of the Property, including, but not limited to, any intangibles tax on the mortgage, and (i) one-half of any escrow fees charged by the Escrow Agent. All other costs and expenses incident to this transaction and the closing thereof shall be paid by the party incurring same.

**11.2 Prorations.** All income and expenses in connection with the operation of the Property shall be apportioned, as of 11:59 p.m. (Eastern time) on the day prior to the Closing Date, (the "**Cut Off Time**") as if Purchaser were vested with title to the Property during the entire Closing Date, such that, except as otherwise expressly provided to the contrary in this Agreement, Seller shall have the benefit of income and the burden of expenses for the day preceding the Closing Date (including, without limitation, any deferred rent received after Closing which relates to a period prior Closing) and the Purchaser shall have the benefit of income and the burden of expenses for the Closing Date and thereafter (provided, however, that in the event that any of the Leases or subleases, if any, covering all or part of the Property provide that the tenants or subtenants thereunder are responsible for direct payment of any of the expenses and the tenants or subtenants are current with respect to such direct payment obligations, such expenses shall not be apportioned as between Seller and Purchaser):

(a) Property taxes (which for all purposes under this **Article XI**, shall include personal property taxes) as more particularly set forth below and in **Section 11.3(b)**;

(b) Rents as and when collected including base rents, escalations, additional rent and percentage rent ("**Rents**") as further described below;

(c) Water, sewer, gas, electric, vault and fuel charges, if any;

(d) Operating expenses for the Property including sums due or already paid pursuant to any Service Agreements;

- (e) Amounts paid pursuant to all transferable licenses and permits, on the basis of the fiscal year for which levied;
- (f) Assessments but only for the annual installment for the fiscal year in which the Closing occurs;
- (g) Purchaser shall receive a credit against the Purchase Price at Closing for the amount of the termination fee paid by the tenants listed on **Exhibit U** (including the amount of such termination payments) in connection with Lease modification or termination agreements executed by such tenants; and
- (h) Any other operating expenses or other items pertaining to the Property which are customarily prorated between a purchaser and a seller in comparable commercial transactions in the area in which the Property is located.

The provisions of this **Section 11.2** shall survive the Closing and the delivery of the Deed.

### **11.3 Rents.**

(a) Purchaser shall receive a credit to the Purchase Price for all prepaid Rents, if any, paid by any tenants. Rents under the Leases will be adjusted and prorated on an “if as and when collected” basis. If, on the Closing Date, there are any unpaid rents for the month of Closing or past due Rents owing by any tenant for any prior period (including, without limitation, any deferred rent scheduled to be received after Closing which relates to a period prior Closing), Rents collected by Purchaser after the Closing Date from such tenants will be applied first, to the month of the Closing; second, to amounts due Purchaser for periods following the month in which the Closing occurred; third, to amounts due Seller for the month prior to Closing; and fourth, to amounts due Seller for periods prior to the month before the Closing occurred. The party receiving such amount shall pay to the other party the portion to which it is entitled, within ten (10) days of its receipt of same.

(b) Supplementing subsection (a) above, additional or escalation rent based upon: (x) a percentage of sales or (y) tenant’s share of real estate taxes, operating expenses, labor costs, costs of living indices or porter’s wages (collectively, “**Overage Rent**”) shall be adjusted and prorated on an if, as and when collected basis. The following shall apply to the extent Overage Rent is billed on the basis of Landlord’s estimates or an annual budget, which is subject to subsequent reconciliation and readjustment with each such tenant at the end of the applicable year:

(i) At least five (5) business days prior to the Closing Date, Seller shall provide Purchaser with a reconciliation statement for calendar year 2021, with all necessary supporting documentation, as to the Overage Rent paid by the tenants for calendar year 2021. Such reconciliation statement shall be based on the actual calendar year 2021 property tax bills and operating expenses. With respect to Overage Rent for the 2021 calendar year, to the extent the reconciliations indicate a net amount owed to Seller,

Purchaser shall give Seller a credit at Closing in the amount of such of net amount, and to the extent the reconciliations indicate a net amount owed to the tenants, Seller shall give Purchaser a credit in the amount of such net amount. In either case, from and after the Closing, Purchaser shall be responsible for collecting any such net amounts owed from tenants or returning any net amounts owed to tenants in accordance with terms of the applicable Leases. Notwithstanding the foregoing, if Closing occurs in 2022, reconciliations under this **Section 11.3(b)(i)** shall occur with respect to 2022 instead of 2021;

(ii) At least five (5) business days prior to the Closing Date, Seller shall provide Purchaser with a reconciliation statement for calendar year 2021 through the end of the calendar month preceding the Closing Date (or the most recent month for which a reconciliation is available if a reconciliation is not yet available for the calendar month preceding the Closing Date), with all necessary supporting documentation, as to the Overage Rent paid by the tenants for calendar year 2021. Such reconciliation statement shall be based on the actual calendar year 2020, property tax bills and the actual operating expenses for 2021 and indicate any difference between the Overage Rent paid by the tenants (based on Seller's annual 2021 budget for real estate taxes and operating expenses) and the amount that should have been paid by the tenants through the Closing Date (based on the actual expenses covering such time period). Notwithstanding the foregoing, if Closing occurs in 2022, reconciliations under this **Section 11.3(b)(ii)** shall occur with respect to calendar year 2022 instead of calendar year 2021.;

(iii) If the Seller has collected more on account of such Overage Rent than such actual amount for such time period (with it being acknowledged that such calculation shall be made only with respect to actually collected Overage Rent sums for such time period, and not any such sums that may be so receivable from tenants), then the amount of such difference shall be credited to Purchaser at the Closing;

(iv) If Seller has collected less from the tenants for Overage Rents than the actual amounts for such time period, then the amount of such under-collected rents shall be paid and delivered to Seller;

(v) Any Seller proposed prorations relating to Overage Rent shall be subject to Purchaser's review and reasonable approval.

(c) The provisions of this **Section 11.3** shall survive the Closing and the delivery of the Deed.

**11.4 Security Deposits.** All security deposits made by any of the tenants of the Property now held by Seller, including without limitation the security deposits as shown on **Exhibit B-1**, or received by Seller prior to Closing, will be turned over or credited to Purchaser at the Closing. If Seller is holding any Security Deposits in the form of letters of credit, Purchaser will not receive a credit for such Security Deposits. Purchaser will indemnify and hold Seller harmless and free from any liability with respect to security deposits turned over or credited to Purchaser and such hold harmless will include any security deposits in the form of

letters of credit which are transferred to Purchaser. Seller shall reasonably cooperate with Purchaser to cause Security Deposits that are in the form of a letter of credit or other instrument to be transferred or re-issued to Purchaser, and, until such transfer or re-issuance, Seller shall, as Purchaser's agent and at its request, draw on any letter of credit in accordance with the applicable Lease and deliver the proceeds to Purchaser. In the event Purchaser makes such a request, and Seller effects a draw on the letter of credit and delivers the applicable proceeds to Purchaser, Purchaser agrees to indemnify, defend, and hold Seller harmless from any claims arising therefrom, including any assertion by a tenant that such draw was wrongful or a breach of the applicable lease, which indemnification shall be inclusive of reasonable attorney's fees. Any out-of-pocket expense incurred by Seller in such cooperation shall be promptly reimbursed by Purchaser (including the costs and expenses resulting from the transfer of the security deposits that are in the form of a letter of credit). The indemnity provided by Purchaser to Seller pursuant to this **Section 11.4** shall survive the Closing and the delivery of the Deed.

**11.5 Existing Debt.** (i) Seller shall be responsible for all principal required to be paid under the terms of each Existing Debt promissory note prior to the Cut Off Time, together with all interest accrued under, and any other amounts due and payable under, such Existing Debt prior to the Cut Off Time (excluding any Existing Debt Fees, which shall be the obligation of Purchaser), and (ii) Purchaser shall be responsible for the payment of all principal required to be paid from and after the Cut Off Time, together with all interest accruing under, and any other amounts due and payable under, each Existing Debt from and after the Cut Off Time. Further, if the Existing Debt Assumption and Release occurs at Closing pursuant to **Section 4.4**, Seller shall be credited for and Purchaser shall be charged for all amounts held in reserves, impounds and other accounts maintained in connection with the Existing Debt as of the Cut Off Time, to the extent assigned to Purchaser.

**11.6 Reserved.**

**11.7 Final Adjustment After Closing.** If final bills are not available or cannot be issued prior to Closing for any item being prorated under this Article, then Purchaser and Seller shall re-prorate such items on a fair and equitable basis on or before the later of (x) ninety (90) days after Closing or (y) thirty (30) days after the date that Seller and Purchaser are able to determine 2021 calendar year property taxes, which proration shall be based on 100% of the assessed value; provided, however, if Purchaser elects to contest the property taxes for calendar year 2021, there shall be a final re-proration within thirty (30) days of receipt of the final 2021 calendar year property taxes. Such final re-proration shall be based on 100% of the final tax bills following the resolution of any such appeal. Purchaser shall promptly notify Seller of its election to appeal the calendar year 2021 real estate taxes and shall keep Seller reasonably informed of the progress of any appeal, including the final resolution. Payments in connection with the final adjustment will be due within ten (10) business days of notice. Purchaser and Seller agree to cooperate and to use commercially reasonable efforts to complete such adjustments in accordance with times set forth in this **Section 11.7**. In addition, if any error in either the calculations or amount of final figures used in a closing adjustment is discovered within sixty (60) days after Closing, Purchaser and Seller agree to correct such error promptly upon notice from the other party and to use commercially reasonable efforts to complete such adjustment



within such sixty (60) day period after Closing. For the avoidance of doubt, except with respect to (x) 2021 calendar year property taxes and (y) deferred rent from tenants under Leases which relates to a period prior to the Closing Date and is received by Purchaser after Closing, all other proration, reconciliation, re-proration and settlement obligations of Purchaser and Seller under this **Section 11.7** shall terminate and be of no further force or effect from and after the date that is ninety (90) days after the Closing Date. This **Section 11.7** shall survive the Closing and the delivery of the Deed for the time periods set forth in this **Section 11.7**. Notwithstanding the foregoing, if Closing occurs in 2022, reconciliations under this **Section 11.7** shall occur with respect to calendar year 2022 instead of calendar year 2021.

**11.8 Reserved.**

**11.9 Thirty-Day Month.** All prorations and/or adjustments provided for in this Agreement will be made on the basis of a 30-day month, unless specifically stated otherwise.

**ARTICLE XII**

**DEFAULT**

**12.1 Default by Purchaser.** IF PURCHASER FAILS TO CONSUMMATE THIS AGREEMENT FOR ANY REASON OTHER THAN SELLER'S DEFAULT OR THE PERMITTED TERMINATION OF THIS AGREEMENT BY EITHER SELLER OR PURCHASER AS PROVIDED FOR IN THIS AGREEMENT, SELLER WILL BE ENTITLED, AS ITS SOLE REMEDY, TO TERMINATE THIS AGREEMENT AND RECEIVE THE DEPOSIT AS LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT. IT IS AGREED BETWEEN SELLER AND PURCHASER THAT THE ACTUAL DAMAGES TO SELLER IN THE EVENT OF SUCH BREACH ARE IMPRACTICAL TO ASCERTAIN, AND THE AMOUNT OF THE DEPOSIT IS A REASONABLE ESTIMATE THEREOF. NOTWITHSTANDING THE FOREGOING, SELLER SHALL RETAIN ALL ITS RIGHTS PURSUANT TO THIS AGREEMENT, AT LAW, OR IN EQUITY, AND NOTHING CONTAINED IN THIS **SECTION 12.1**, WILL LIMIT THE LIABILITY OF PURCHASER UNDER (I) ANY INDEMNITY PROVIDED BY PURCHASER UNDER THIS AGREEMENT; (II) ANY OF THE DOCUMENTS AND INSTRUMENTS EXECUTED AND DELIVERED TO SELLER PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR (III) ANY ACTIONS COMMENCED AFTER CLOSING WITH RESPECT TO ANY OBLIGATION OR REPRESENTATION OF EITHER SELLER OR PURCHASER, WHICH BY THE TERMS OF THIS AGREEMENT SURVIVES CLOSING, INCLUDING BUT NOT LIMITED TO, PROVISIONS REGARDING CONFIDENTIALITY AND PAYMENT OF BROKERAGE FEES.

**12.2 Default by Seller.** In the event of any default by Seller prior to or on the Closing Date under the terms of this Agreement, Purchaser's sole remedies will be either to: (i) terminate this Agreement and receive a refund of the Deposit in full consideration of any claims Purchaser may have against Seller; or (ii) to commence within sixty (60) days of the date the Closing was to have occurred and diligently prosecute an action in the nature of specific performance. If an action in the nature of specific performance is not an available remedy or if Purchaser elects to

commence such action and is unsuccessful as a result of Seller's acts in violation of the terms of this Agreement, then the Deposit will be returned to Purchaser, and in addition, Seller shall pay to Purchaser all of the third-party costs actually incurred by Purchaser in connection with this transaction, including but not limited to, Purchaser's attorney's fees incurred in connection with the preparation and negotiation of this Agreement and conducting legal due diligence with respect to the Property, engineering fees, and other consultants and other fees charged by third parties for assisting Purchaser with Purchaser's due diligence of the Property up to a maximum aggregate amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00), and thereafter, the parties will be released from their obligations under this Agreement (except those that expressly survive termination of this Agreement). Under no circumstances will Purchaser have available to it an action at law or otherwise for damages, except as expressly set forth in this Agreement.

### **ARTICLE XIII**

#### **REPRESENTATIONS AND WARRANTIES**

**13.1 Seller's Representations.** Seller represents and warrants to Purchaser the following (collectively, "**Seller's Representations**") as of the Effective Date and as of the Closing Date, provided that certain of Seller's Representations may be modified as a result of changes in facts or circumstances after the date hereof, which shall not be deemed to cause a breach of any of Seller's Representations unless Seller causes such changed facts or circumstances in violation of the terms of this Agreement; and provided, further, that Purchaser's remedies in the instance that any of Seller's Representations are untrue as of the Closing Date, are limited to those set forth in **Article XII**:

(a) Seller is duly organized, validly existing and in good standing under the laws of the state of its formation set forth in the initial paragraph of this Agreement, has or at the Closing will have the entity power and authority to sell and convey the Property and to execute the documents to be executed by Seller and prior to the Closing will have taken as applicable, all corporate or equivalent entity actions required for the execution and delivery of this Agreement, and the consummation of the transactions contemplated by this Agreement.

(b) Except relating to the Existing Debt, Seller has all necessary approvals to execute and deliver this Agreement and perform its obligations hereunder, and no other authorization or approvals, whether of governmental bodies or otherwise, will be necessary in order to enable Seller to enter into or comply with the terms of this Agreement.

(c) This Agreement and the other documents to be executed by Seller hereunder, upon execution and delivery thereof by Seller, will have been duly entered into by Seller, and will constitute legal, valid and binding obligations of Seller. Neither this Agreement nor anything provided to be done under this Agreement violates or shall violate any contract, document, understanding, agreement or instrument to which Seller is a party or by which it is bound.

(d) Seller is a “United States person” within the meaning of Sections 1445(f)(3) and 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

(e) The Leases provided to Purchaser by Seller are true, correct and complete copies of the Leases between Seller and the tenants thereunder, including any and all amendments, renewals and extensions thereof. The Schedule of Existing Tenants attached hereto as **Exhibit B** was prepared for Seller by Seller’s property manager of the Property, and to Seller’s knowledge, is true and correct in all material respects and lists all Leases as of the Effective Date and a report of delinquencies under the Leases existing as of the Effective Date and is the schedule of Leases maintained by Seller and relied on by Seller for internal administration purposes. As of the Effective Date and except as set forth on **Exhibit B-2**, (i) Seller has received no written notice of any default by the landlord under the Leases, and (ii) Seller has not entered into any oral leases affecting the Property.

(f) To Seller’s knowledge, Seller has received no written notice from any governmental body or agency of any violation or alleged violation of any zoning ordinance, land use law or building code with respect to the Property, which violation or alleged violation has not been corrected.

(g) Seller has received no written notice from any governmental body or agency of any violation or alleged violation of any applicable law with respect to Hazardous Materials on the Property.

(h) Seller and, to Seller’s knowledge, its partners, members, principal stockholders and any other constituent entities (i) has not been designated as a “specifically designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf> or at any replacement website or other replacement official publication of such list and (ii) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

(i) To Seller’s knowledge, no pending or threatened litigation involving the Property or Seller exists which if determined adversely would restrain the consummation of the transactions contemplated by this Agreement or would declare illegal, invalid or non-binding any of Seller’s obligations or covenants to Purchaser pursuant to this Agreement.

(j) To Seller’s knowledge, the Service Agreements provided to Purchaser by Seller are true, correct and complete copies of the Service Agreements relevant to the Property, including any and all amendments, renewals and extensions thereof. To Seller’s knowledge, no party is in material default with respect to its obligations or liabilities under any of the Service Agreements.

(k) There are no employees who are employed by Seller or any property manager engaged by Seller in the operation, management or maintenance of the Property whose employment will continue after Closing. On and after the Closing, there will be no obligations concerning any pre-Closing employees of Seller, nor will there be any property management agreement which will be binding on Purchaser or the Property.

(l) There is no receivership, or voluntary or involuntary proceeding in bankruptcy or pursuant to any other debtor relief laws, pending by or against Seller.

(m) To Seller's knowledge, there are no outstanding options to purchase, rights of first offer or rights of first refusal, with respect to the Property.

(n) Seller has received no written notice from any Existing Lender of any default or alleged default by Seller (as Borrower) under the Existing Debt.

**13.2 Definition of Seller's Knowledge.** Any representation made "to Seller's knowledge" will not be deemed to imply any duty of inquiry. For purposes of this Agreement, the term Seller's "knowledge" means the actual knowledge of the Designated Representative of Seller and will not be construed to refer to the knowledge of any other officer, director, agent, employee or representative of the Seller, or any Affiliate of Seller, or to impose upon such Designated Representative any duty to investigate the matter to which such actual knowledge or the absence thereof pertains, or to impose upon such Designated Representative any individual personal liability. As used herein, the term "**Designated Representative of Seller**" refers to Carl Dickson, who is Executive Vice President of Asset Management of Seller's Affiliate, and has knowledge of the matters which are the subject of Seller's representations and warranties in **Section 13.1** above.

**13.3 Purchaser's Representations, Warranties, and Covenants.** For the purpose of inducing Seller to enter into this Agreement and to consummate the sale and purchase of the Property in accordance herewith, Purchaser represents and warrants to Seller the following as of the Effective Date and as of the Closing Date:

(a) Purchaser is a limited partnership, duly organized, validly existing and in good standing under the laws of the State of North Carolina.

(b) Purchaser, acting through any of its duly empowered and authorized officers or members, has all necessary entity power and authority to transact the business in which it is engaged, and has full power and authority to enter into this Agreement, to execute and deliver the documents and instruments required of Purchaser herein, and to perform its obligations hereunder; and no consent not obtained of any of Purchaser's partners, directors, officers or members is required to so empower or authorize Purchaser. The compliance with or fulfillment of the terms and conditions hereof will not conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement to which Purchaser is a party or by which Purchaser is otherwise bound, which conflict, breach or default would have a material adverse effect on Purchaser's ability to consummate the transaction contemplated by this Agreement.

(c) No pending or, to the knowledge of Purchaser, threatened litigation involving Purchaser exists which if determined adversely would restrain the consummation of the transactions contemplated by this Agreement or would declare illegal, invalid or non-binding any of Purchaser's obligations or covenants to Seller.

(d) Other than Seller's Representations and any representations of Seller made in the Closing Documents, Purchaser has not relied on any representation or warranty made by Seller or any representative of Seller, including Broker (as hereinafter defined in **Section 2.2(a)**), in connection with this Agreement and the acquisition of the Property.

(e) Purchaser and, to Purchaser's knowledge, its partners, members, principal stockholders and any other constituent entities (i) has not been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <[http://www.treas.gov/offices/enforcement/ofac/sdn/t11\\_sdn.pdf](http://www.treas.gov/offices/enforcement/ofac/sdn/t11_sdn.pdf)> or at any replacement website or other replacement official publication of such list; (ii) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto; and (iii) has not used and will not use funds from illegal activities for any portion of the Purchase Price, including the Deposit.

(f) Purchaser is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("**ERISA**"), which is subject to Title I of ERISA, or a "plan" as defined in Section 4975(e)(1) of the Code, which is subject to Section 4975 of the Code; and (b) the assets of Purchaser do not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA or Section 4975 of the Code; and (c) Purchaser is not a "governmental plan" within the meaning of Section 3(32) of ERISA, and assets of Purchaser do not constitute plan assets of one or more such plans; or (d) transactions by or with Purchaser are not in violation of state statutes applicable to Purchaser regulating investments of and fiduciary obligations with respect to governmental plans.

**13.4 Survival.** The representations and warranties made by Purchaser in **Section 13.3** (other than those made in **Sections 13.3 (e)** and **(f)** which are meant to survive indefinitely) shall survive the Closing and delivery of the Deed for a period of six (6) months.

#### **ARTICLE XIV**

#### **ESCROW PROVISIONS**

**14.1 Escrow Provisions.** The Deposit and any other sums (including without limitation, any interest earned thereon) which the parties agree shall be held in escrow (collectively "**Escrow Funds**"), shall be held by Escrow Agent, in trust and disposed of only in accordance with the following provisions:

(a) Escrow Agent hereby agrees to hold, administer, and disburse the Escrow Funds pursuant to this Agreement. Escrow Agent shall invest such Escrow Funds in a segregated, interest-bearing money market account at a national bank reasonably acceptable to Seller and Purchaser. In the event any interest or other income shall be earned on such Escrow Funds, such interest or other income shall become a part of the Escrow Funds and will be the property of the party entitled to the Deposit pursuant to this Agreement. Purchaser's and Seller's Federal Identification Numbers are set forth below.

(b) At such time as Escrow Agent receives written notice from either Purchaser or Seller, or both, setting forth the identity of the party to whom such Escrow Funds (or portions thereof) are to be disbursed and further setting forth the specific section or paragraph of the Agreement pursuant to which the disbursement of such Escrow Funds (or portions thereof) is being requested, Escrow Agent shall disburse such Escrow Funds pursuant to such notice; provided, however, that if such notice is given by either Purchaser or Seller but not both, Escrow Agent shall (i) promptly notify the other party (either Purchaser or Seller as the case may be) that Escrow Agent has received a request for disbursement, and (ii) withhold disbursement of such Escrow Funds for a period of ten (10) days after receipt of such notice of disbursement and if Escrow Agent receives written notice from either Purchaser or Seller within said ten (10) day period which notice countermands the earlier notice of disbursement, then Escrow Agent shall withhold such disbursement until both Purchaser and Seller can agree upon a disbursement of such Escrow Funds. Purchaser and Seller hereby agree to send to the other, pursuant to **Section 15.6** below, a duplicate copy of any written notice sent to Escrow Agent and requesting any such disbursement or countermanding a request for disbursement.

(c) In performing any of its duties hereunder, Escrow Agent shall not incur any liability to anyone for any damages, losses, or expenses, except for willful default or breach of trust, and it shall accordingly not incur any such liability with respect to (i) any action taken or omitted in good faith upon advice of its legal counsel given with respect to any questions relating to the duties and responsibilities of Escrow Agent under this Agreement, or (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for in this Agreement, not only as to its due execution and the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons, and to conform with the provisions of this Agreement.

(d) Notwithstanding the provisions of **Section 14.1(b)** above, in the event of a dispute between Purchaser and Seller sufficient, in the sole discretion of Escrow Agent to justify its doing so or in the event that Escrow Agent has not disbursed the Escrow Funds on or before ten (10) days after the Closing Date, Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction the Escrow Funds, together with such legal pleadings as it may deem appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement. Any such legal action may be brought in a federal or state court in Wake County, North Carolina or, if is such courts do not have jurisdiction as to the parties or matters involved then such court as Escrow Agent shall determine to have jurisdiction thereof.

(e) Escrow Agent has executed this Agreement in the place indicated on the signature page hereof in order to confirm that the Escrow Agent has received the Deposit and shall hold the Escrow Funds in escrow, and shall disburse the Escrow Funds pursuant to the provisions of this **Article XIV**. A copy of the fully executed Agreement shall be delivered to both parties hereto.

## ARTICLE XV

### GENERAL PROVISIONS

**15.1 No Agreement Lien.** In no event will Purchaser have a lien against the Property by reason of any deposits made under this Agreement or expenses incurred in connection therewith and Purchaser waives any right that it might have to so lien the Property.

**15.2 Confidentiality.**

(a) Except as provided otherwise in this **Section 15.2**, Purchaser and Seller, for the benefit of each other, hereby agree that neither of them will release, or cause or permit to be released, to the public any press releases or notices except as set forth in **Section 15.2(b)** below, publicity (oral or written) or advertising promotion relating to, or otherwise publicly announce or disclose, or cause or permit to be publicly announced or disclosed, in any manner whatsoever (i) the names of Seller or Purchaser respectively, or any of their Affiliates or investors in relation to the transactions contemplated by this Agreement, or (ii) the existence of this Agreement or any of the terms, conditions or substance of this Agreement, without in each case first obtaining the consent of the other party hereto. Each of Seller and Purchaser shall cause its Representatives to comply with the terms of this **Section 15.2** (and each party agrees that any breach of this **Section 15.2** caused by any disclosure by any of its Representatives shall be deemed a breach by such party hereunder).

(b) It is understood and agreed that the foregoing shall not preclude (i) any party hereto from disclosing information that is or becomes public (so long as the disclosure is not the result of a violation of this Agreement), and the substance or any relevant details of the transactions contemplated by this Agreement, (ii) Purchaser from sharing information relating to the transactions contemplated by this Agreement, the Property and/or any other information obtained from any person in connection with the foregoing, on a confidential basis with Purchaser's Affiliates and its and their respective officers, directors, employees, attorneys, accountants, professional consultants, advisors, financial advisors, rating agencies, potential joint venture partners, potential lenders and/or representatives (collectively, "**Representatives**"), (iii) any party hereto from making any Unrestricted Disclosure (as hereinafter defined), and (iv) any party hereto from disclosing information if necessary or advisable at the direction of legal counsel to comply with applicable laws or the requirements of a court of competent jurisdiction, including without limitation, governmental regulatory disclosure, tax and reporting requirements. The parties hereto hereby acknowledge that Preferred Apartment Communities, Inc. ("**PAC**"), the parent entity of Seller, and Highwoods Properties, Inc. ("**HPI**"), the parent entity of Purchaser, are each a publicly traded company, and as such, each is subject to extensive reporting and disclosure requirements under statutory and common law duties owed to each of its

shareholders and in accordance with applicable securities laws. These requirements may include, but are not limited to: (A) filing a copy of this Agreement with the Securities and Exchange Commission (“**SEC**”), (B) reporting on the results of the transactions contemplated by this Agreement in filings and/or reports under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, and related press releases; provided, however, Purchaser and Seller shall provide the other party with (I) a draft copy of any press release to be issued by such party in advance of issuing such press release, and (II) the opportunity to review and provide comments to the draft press release, which PAC or HPI, as applicable, shall consider in good faith; provided, further, for the avoidance of doubt, neither Purchaser nor Seller shall have a right to approve any press release to be issued by PAC or HPI, respectively; and (C) describing this Agreement and the transactions contemplated by this Agreement in such filings, reports and/or releases (the “**Unrestricted Disclosures**”). The Unrestricted Disclosures shall also include disclosures of information about this Agreement and the transactions contemplated by this Agreement by representatives of PAC or HPI (as applicable) in the ordinary course of business to The New York Stock Exchange, financial analysts, rating agencies, banks and other similar persons or institutions, which information is of the same general nature as that disclosed about PAC or HPI (as applicable) to such persons or institutions in the ordinary course of business.

(c) In addition to any other remedies available at law to Seller and Purchaser, Seller and Purchaser shall each have the right to seek equitable relief, including injunctive relief or specific performance, against the other party and/or its Representatives in order to enforce the provisions of this **Section 15.2**.

(d) Notwithstanding any other provision of this Agreement, the provisions of this **Section 15.2** shall survive the Closing or the earlier termination of this Agreement.

**15.3 Headings.** The captions and headings herein are for convenience and reference only and in no way define, describe or limit the scope, content or intent of this Agreement or in any way affect its provisions.

**15.4 Brokers.** Seller and Purchaser agree that Broker was the only broker with whom the parties negotiated in connection with the sale and purchase of the Property. Seller is obligated to pay any and all brokerage commissions payable to the Broker, in accordance with a separate agreement between it and the Broker. Seller agrees to indemnify and hold Purchaser harmless from the claims of any other party claiming a commission due it by reason of an agreement with Seller. Purchaser agrees to indemnify and hold Seller harmless from the claims of any other party claiming a commission due it by reason of an agreement with Purchaser. Purchaser will be responsible for paying an independent advisory fee to JP Morgan pursuant to an agreement between them regarding JP Morgan’s investment advice in connection with this transaction. The provisions of this Section will survive the Closing and the delivery of the Deed or termination of this Agreement.

**15.5 Modifications.** This Agreement may not be modified in any respect except by an instrument in writing and duly signed by the parties hereto. The parties agree that this Agreement



contains all of the terms and conditions of the understanding between the parties hereto and that there are no oral understandings whatsoever between them.

**15.6 Notices.** All notices, consents, approvals, acceptances, demands, waivers and other communications (“**Notice**”) required or permitted hereunder must be in writing and must be sent by (i) personal delivery, (ii) certified mail, return receipt requested, (iii) for next day delivery by nationally recognized overnight delivery service that provides evidence of the date of delivery, or (iv) electronic mail, in any case with all charges prepaid, addressed to the appropriate party at its address listed below.

To Seller: Preferred Apartment Communities, Inc.  
3284 Northside Parkway, Suite 150  
Atlanta, Georgia 30327  
Attention: Jared A. Seff, Esq.  
Email: jseff@pacapts.com

With a copy to: King & Spalding LLP  
1180 Peachtree Street, NE  
Atlanta, GA 30309  
Attention: Joshua M. Kamin, Esq.  
Email: jkamin@kslaw.com

To Purchaser: Highwoods Realty Limited Partnership  
3100 Smoketree Court, Suite 600  
Raleigh, NC 27604  
Attention: Jeffrey D. Miller, Esq.  
Email: jeff.miller@highwoods.com

With a copy to: Allman Spry Davis Leggett & Crumpler, PA  
380 Knollwood Street, Suite 700  
Winston-Salem, NC 27103  
Attention: Thomas T. Crumpler, Esq.  
Email: tcrumpler@allmanspry.com

All Notices given in accordance with this Section will be deemed to have been received three (3) business days after having been deposited in any mail depository regularly maintained by the United States Postal Service, if sent by certified mail, on the date delivered if by personal delivery or electronic mail or one (1) business day after having been deposited with a nationally recognized overnight delivery service, if sent by overnight delivery, or on the date delivery is refused, as indicated on the return receipt or the delivery records of the delivery service, as applicable. Notices given by counsel to a party in accordance with the above shall be deemed given by such party.

**15.7 Assignment.** Purchaser will not assign this Agreement or its rights hereunder without Seller's prior written consent, which may be withheld in Seller's sole and absolute discretion, and any attempted assignment or transfer without Seller's consent will be null and void ab initio and of no effect. The foregoing notwithstanding, provided that Purchaser is in compliance with the conditions hereinafter set forth, Purchaser shall have the right to assign this Agreement, without Seller's consent, provided (a) the assignment is effective on the Closing Date, (b) the assignment is to an Affiliate of Purchaser created by Purchaser or its qualified intermediary which may organize an "exchange accommodation title holder" ("**EAT**") for the purpose of "parking" the Property in connection with and to accommodate a reverse exchange of property under Section 1031 of the Internal Revenue Code as described in **Section 15.26** hereof, (c) the assignment is on the form attached hereto as **Exhibit Q** or is a form required by Purchaser qualified intermediary and its EAT (provided, Seller incurs no cost in connection therewith) and includes all of Purchaser's right, title and interest in and to the Deposit, and provides for the assumption, for the benefit of Seller as a third-party beneficiary, of all of Purchaser's obligations under this Agreement, (d) that such assignee has assumed any and all obligations and liabilities of Purchaser under this Agreement, but, notwithstanding such assumption, Purchaser shall continue to be liable hereunder, and (e) Purchaser provides Seller, at least seven (7) business days' prior to Closing, with written notice of such assignment and executed counterparts of all documents evidencing or otherwise executed in connection with such assignment. Any assignment which fails to meet the criteria of this **Section 15.7** or to which Seller has not otherwise consented shall be void and of no force or effect. Purchaser shall deliver to Seller prior to Closing, and as a condition to the effectiveness of any such assignment, such supporting evidence of the foregoing as is reasonably required by Seller.

**15.8 Further Assurances.** Purchaser and Seller hereby agree to complete, execute and deliver to the appropriate governmental authorities any returns, affidavits or other instruments that may be required with respect to any transfer, gains, sales, stamps and similar taxes, if any, arising out of this transaction.

**15.9 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Georgia.

**15.10 Offer Only.** This Agreement will not constitute a binding agreement by and between the parties hereto until such time as this Agreement has been duly executed and delivered by each and the Deposit is deposited with the Escrow Agent in accordance with this Agreement.

**15.11 Counterparts.** This Agreement may be executed in counterparts, each of which, when taken together shall constitute fully executed originals.

**15.12 E-mail or PDF Signatures.** Signatures to this Agreement and the Site Access and Indemnification Agreement transmitted by e-mail or PDF shall be valid and effective to bind the party so signing. A copy of the electronic mail or PDF shall also be sent to the intended addressee by one of the means described in clauses (i) or (ii) of **Section 15.6** above, in any case with all charges prepaid, addressed to the appropriate party at its address provided herein.

**15.13 Entire Agreement; Severability.** This Agreement, together with the Site and Access Agreement, embody the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties, nor any representations made by either party relative to the subject matter hereof, which are not expressly set forth herein. If any portion of this Agreement becomes or is held to be illegal, null or void or against public policy, for any reason, the remaining portions of this Agreement will not be affected thereby and will remain in force and effect to the fullest extent permissible by law.

**15.14 No Waiver.** No waiver by Purchaser or Seller of a breach of any of the terms, covenants or conditions of this Agreement by the other party will be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default by Purchaser or Seller under this Agreement will be implied from any omission by the other party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect a default other than as specified in such waiver. The consent or approval by Purchaser or Seller to or of any act by the other party requiring the consent or approval of the first party will not be deemed to waive or render unnecessary such party's consent or approval to or of any subsequent similar acts by the other party.

**15.15 Limitation of Liability.** If Purchaser becomes aware after Closing of any breach and/or violation of any of Seller's representations and/or warranties and/or Excepted Claims set forth herein or of any other matter for which Seller would or could become liable to Purchaser, whether hereunder or under any Closing document, and Purchaser timely commences any action(s) to enforce any alleged breach and/or violation of any of the representations and/or warranties of Seller, or Seller's liability for an Excepted Claim, as set forth in this Agreement or to enforce any other claims for liability against Seller, and, notwithstanding any provision to the contrary contained herein or in any document executed by Seller pursuant hereto or in connection herewith, in no event shall Seller be liable for any special, consequential, speculative, punitive or similar damages, nor shall Seller's liability in any such event or events exceed one and one-half percent (1.50%) of the Purchase Price ("**Seller's Maximum Liability**") and no claim by Purchaser may be made and Seller shall not be liable for any judgment in any action based upon any such claim unless and until Purchaser's claims are for an aggregate amount in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) (the "**Claims Threshold**"), in which event Seller's liability respecting any final judgment concurring such claim(s) shall be for the entire amount thereof, subject to Seller's Maximum Liability. The amount of Seller's Maximum Liability shall be inclusive of attorneys' fees, and ancillary court and experts' costs and fees. Purchaser agrees that, prior to making any claims against Seller, Purchaser shall, to the extent applicable, pursue any remedies it may have against the Title Company pursuant to the Title Policy. The provisions of this **Section 15.15** will survive the Closing and the delivery of the Deed.

**15.16 Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**15.17 Successors and Assigns.** Subject to the limitations set forth elsewhere in this Agreement, each and all of the covenants and conditions of this Agreement will inure to the benefit of and will be binding upon the successors-in-interest, assigns, and representatives of the parties hereto. As used in the foregoing, “successors” refers to the successors to all or substantially all of the assets of parties hereto and to their successors by merger or consolidation.

**15.18 No Partnership or Joint Venture.** Seller or Purchaser will not, by virtue of this Agreement, in any way or for any reason be deemed to have become a partner of the other in the conduct of its business or otherwise, or a joint venturer. In addition, by virtue of this Agreement there shall not be deemed to have occurred a merger of any joint enterprise between Purchaser and Seller.

**15.19 No Recordation.** Seller and Purchaser each agrees that neither this Agreement nor any memorandum, short form agreement or notice hereof shall be recorded, and Purchaser further agrees (a) not to file any notice of pendency, *lis pendens* or other instrument (other than a judgment) against the Property or any portion thereof, and (b) to be responsible for and to indemnify Seller against all Liabilities (including reasonable attorneys’ fees, expenses and disbursements) incurred by Seller by reason of the filing by Purchaser of any such notice of pendency, *lis pendens* or other instrument.

**15.20 Designation Agreement.** Section 6045(e) of the United States Internal Revenue Code and the regulations promulgated thereunder (herein collectively called the “**Reporting Requirements**”) require an information return to be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Transaction. Escrow Agent is either (x) the person responsible for closing the Transaction (as described in the Reporting Requirements) or (y) the disbursing title or escrow company that is most significant in terms of gross proceeds disbursed in connection with the Transaction (as defined in the Reporting Requirements). Accordingly:

(a) Escrow Agent is hereby designated as the “**Reporting Person**” (as defined in the Reporting Requirements) for the Transaction. Escrow Agent shall perform all duties that are required by the Reporting Requirements to be performed by the Reporting Person for the Transaction.

(b) Seller and Purchaser shall furnish to Escrow Agent, in a timely manner, any information requested by Escrow Agent and necessary for Escrow Agent to perform its duties as Reporting Person for the Transaction.

(c) Escrow Agent hereby requests Seller to furnish to Escrow Agent Seller’s correct taxpayer identification number. Seller acknowledges that any failure by Seller to provide Escrow Agent with Seller’s correct taxpayer identification number may subject Seller to civil or criminal penalties imposed by law. Accordingly, Seller hereby certifies to Escrow Agent, under penalties of perjury, that Seller’s correct taxpayer identification number is as set forth opposite Seller’s signature to this Agreement.

(d) Each of the parties hereto shall retain this Agreement for a period of four (4) years following the calendar year during which Closing occurs.

The provisions of this **Section 15.20** will survive the Closing and the delivery of the Deed.

**15.21 Survival.** Seller covenants, agreements, indemnities, warranties and representations contained in this Agreement and in any document executed by Seller pursuant to this Agreement, including, without limitation, all Excepted Claims (except for those set forth in **Sections 13.1(d), 13.1(h), 15.2, 15.15, 15.20,** and this **Section 15.21** which are meant to survive indefinitely) shall survive Purchaser's purchase of the Property only for a period commencing on the Closing Date and ending six (6) months after the Closing Date or, if another period of time is specified, such other period of time (as applicable, the "**Survival Period**"). It is expressly agreed that any action, suit or proceeding with respect to the truth, accuracy or completeness of all representations and warranties in this Agreement or the breach of any covenant or agreement in this Agreement or in any closing document, shall be commenced, if at all, on or before the end of the Survival Period and, if not commenced on or before such date, thereafter will be void and of no force or effect. The provisions of this **Section 15.21** will survive the Closing and the delivery of the Deed and/or termination of this Agreement. Purchaser shall provide written notice to Seller prior to the expiration of the Survival Period of any alleged breach of such covenants, indemnities, warranties or representations and shall allow Seller thirty (30) days within which to cure such breach, or, if such breach cannot reasonably be cured within thirty (30) days, an additional reasonable period of time so long as a cure has been commenced and is being diligently pursued. If Seller fails to cure such breach after written notice and within such cure period, Purchaser's sole remedy shall be an action at law for actual damages as a consequences thereof, which must be commenced, if at all, within the Survival Period; provided, however, that if within the Survival Period Purchaser gives Seller written notice of such a breach and Seller notifies Purchaser of Seller's commencement of a cure, commences to cure and thereafter terminates such cure effort, Purchaser shall have an additional thirty (30) days from the date of such termination within which to commence an action at law for damages as a consequence of Seller's failure to cure. The Survival Period referred to herein shall apply to known as well as unknown breaches of such covenants, indemnities, warranties or representations. Purchaser's waiver(s) and release(s) set forth in **Sections 1.6 and 1.7** shall apply fully to liabilities under such covenants, indemnities, representations and warranties and is hereby incorporated by this reference. Purchaser specifically acknowledges that such termination of liability represents a material element of the consideration to Seller. The limitation as to Seller's liability in this **Section 15.21** does not apply to Seller's or Purchaser's liability with respect to prorations and adjustments under **Article XI**.

Notwithstanding any contrary provision of this Agreement, if Seller becomes aware during the pendency of this Agreement prior to Closing of any matters which make any of its representations or warranties untrue in any material respect, Seller shall promptly disclose such matters to Purchaser in writing. In the event that Seller so discloses any matters which make any Seller's representations and warranties so untrue in any material respect or in the event that Purchaser otherwise becomes aware during the pendency of this Agreement prior to Closing of

any matters which so make any of Seller's representations or warranties untrue in any material respect, Seller shall bear no liability for such matters (provided that such untruth is not the result of Seller's breach of any express covenant set forth in this Agreement), but Purchaser shall have the right to elect in writing on or before the Closing Date, (i) to waive such matters and complete the purchase of the Property without reduction of the Purchase Price in accordance with the terms of this Agreement, or (ii) as to any matters disclosed following the Effective Date, to terminate this Agreement if the failure of such representations or warranties would, individually or in the aggregate, result in an adverse impact or cost on or to the Property or Purchaser which, either (x) is in excess of the Claims Threshold, or (y) is less than the Claims Threshold and Purchaser does not receive a credit toward the Purchase Price of such amount at Closing.

No claim for a breach of any of Seller's Representations shall be actionable or payable (a) if such breach is due to or is based on a condition, state of facts or other matter that was known to Purchaser or disclosed to Purchaser or its Affiliate in the Property Documents or by email, overnight delivery or otherwise available to Purchaser or its Affiliate, or in writing delivered to Purchaser or its Affiliate prior to Closing.

**15.22 Third Party Beneficiaries.** This Agreement shall not confer any rights or remedies on any person other than the parties and their respective successors and permitted assigns.

**15.23 Access to Records Following Closing.** Purchaser agrees that for a period of six (6) months following Closing, Seller shall have the right during regular business hours, on five (5) days written notice to Purchaser, to examine and review at Purchaser's office (or, at Purchaser's election, at the Property), the books and records of Seller relating to the ownership and operation of the Property, which was delivered by Seller to Purchaser at the Closing. Likewise, Seller agrees that for a period of six (6) months following the Closing, Purchaser shall have the right during regular business hours, on fifteen (15) days written notice to Seller, to examine and review at Seller's office, all non-confidential or non-proprietary books, records and files, if any, retained by Seller relating to the ownership and operation by Seller prior to the Closing of the Property. The provisions of this Section shall survive for a period of six (6) months after the Closing Date. Notwithstanding the foregoing, Seller and Purchaser shall cooperate with one another in a commercially reasonable manner in connection with any reconciliation or audit of tenant expenses, and such obligation shall survive Closing until all such matters are finally resolved.

**15.24 Joint and Several.** The liability of each constituent entity comprising Seller shall be joint and several with the liability of each other constituent entity comprising Seller.

**15.25 Cooperation with Purchaser's Auditors and SEC Filing Requirements.** Seller shall provide to Purchaser (at Purchaser's sole expense) copies of, or shall provide Purchaser access to, such factual information as may be reasonably requested by Purchaser, or its accountants, and in the possession or control of Seller, or its accountants (and will request its property manager as of the date of Closing to provide such information), and which is necessary to enable Purchaser (or HPI and/or its Affiliates) to file its or their Forms 8-K, 10-Q or 10-K if, as and when such filing may be required by the SEC. Purchaser hereby releases and agrees to

indemnify, defend and hold Seller, its Affiliates, agents, employees, and partners, harmless from and against any claims, liability, expenses (including without limitation reasonable attorneys fees), losses and damages arising out of Seller's cooperation hereunder or any information provided by Seller pursuant hereto; provided, however, that this indemnity shall not apply to the extent such liability is caused by the gross negligence or willful misconduct of Seller. The indemnity obligations of Purchaser to Seller under this **Section 15.25** shall survive the termination of this Agreement for any reason.

**15.26 Section 1031 Exchange.** The parties acknowledge that the conveyance of the Property to Purchaser may be structured by Purchaser as a like-kind exchange (including a “reverse exchange”) pursuant to Section 1031 of the Internal Revenue Code and federal cases interpreting this rule (an “**Exchange**”). Seller agrees to reasonably cooperate with Purchaser in effecting such Exchange, provided that Purchaser shall bear all of the expenses and liabilities associated therewith, Seller shall not be subject to any liability, and provided further that Purchaser’s ability to undertake any such exchange shall not in any manner be considered a condition of Purchaser’s obligations under this Agreement and the same shall not delay the Closing. It is contemplated that Purchaser may assign this Agreement to a “qualified intermediary” pursuant to Treasury Regulation Section 1.103(k)-I(g)4(v) and/or Purchaser may cause the Property to be conveyed (i.e., “parked”) with an EAT organized by a qualified intermediary pending Purchaser’s sale of other properties owned by Purchaser (its “relinquished property”) as part of the Exchange. Accordingly, in the event of such assignment and/or “parking” arrangement, Seller shall, upon notice from Purchaser, convey the Property at Closing to the EAT or EATs organized by Purchaser’s qualified intermediary, and shall to the extent of the assignment, treat the qualified intermediary and/or EAT(s) as the valid assignee of Purchaser’s rights hereunder. Notwithstanding anything contained herein, (a) Seller shall not be required to acquire or hold legal or beneficial title to, or any other interest, in any property for purposes of consummating Purchaser’s Exchange, (b) Seller shall have the right to review and approval (which approval shall not be unreasonably withheld, conditioned or delayed) all documents Seller is required to execute in connection with any Exchange, and (c) in the event of any Exchange, and notwithstanding that in connection with such Exchange record title to the Property may be conveyed by Seller to an accommodation entity which thereupon will later convey title to the Property to Purchaser, all covenants, agreements and indemnifications of Purchaser pursuant to this Agreement shall be deemed to be made by Purchaser, shall survive any conveyance by Seller to an accommodation party, shall continue in favor of and inure to the benefit of Seller and shall be enforceable by Seller against Purchaser to the extent provided in this Agreement as though the Property had been conveyed directly by Seller to Purchaser and the exchange shall in no way reduce, abridge or modify any of Purchaser’s obligations or any of Seller’s rights or remedies hereunder. Seller will have no liability to Purchaser under or in connection with any Exchange, including in the event the Exchange is not consummated, or in the event Purchaser does not achieve the desired tax treatment.

**15.27 Force Majeure Event.** If Closing does not occur on the Closing Date because of the occurrence of a Force Majeure Event (as defined below) (but unless Purchaser and Seller otherwise agree in writing, no such Force Majeure Event extension shall exceed ten (10) days in the aggregate), the Closing Date shall be extended to the next business day immediately

following the cessation of the Force Majeure Event. For purposes of this Agreement, the term “**Force Majeure Event**” means acts of God (including, but not limited to tornadoes, floods, hurricanes and/or other weather conditions or other national disasters), expropriation or confiscation of facilities by any governmental authority, compliance with any order or request of any governmental authority, strikes, lockouts, riots, or other labor troubles or a national emergency, a pandemic or epidemic, or a failure of the Automated Clearing House or similar wire transfer system utilized for the transfer of money or similar causes not within Seller’s or Purchaser’s control.

[Remainder of page intentionally left blank; signature page(s) to follow]



IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto, as of the Effective Date.

**SELLER:**

**POP Armour Yards, LLC.**, a Delaware limited liability company

By: POP Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Office Properties, LLC, a Maryland limited liability company, its sole member

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By: /s/ Joel T. Murphy

Name: Joel T. Murphy

Title: Chief Executive Officer and President

SELLER SIGNATURES CONTINUE ON THE FOLLOWING PAGE

*[Signature pages to Purchase and Sale Agreement]*

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**POP 251 Armour Yards, LLC.**, a Delaware limited liability company

By: Preferred Office Growth REIT, LLC, a Delaware limited liability company, its sole member

By: Preferred Office Fund Manager, LLC, a Delaware limited liability company, the sole member of its board of managers

By: Preferred Office Properties, LLC, a Maryland limited liability company, its sole member

By: PAC Carveout, LLC, a Delaware limited liability company, its sole member

By: Preferred Apartment Communities Operating Partnership, L.P., a Delaware limited partnership, as sole member of the Board of Managers

By: Preferred Apartment Communities, Inc., a Maryland corporation, its sole general partner

By:  /s/ Joel T. Murphy

Name: Joel T. Murphy

Title: Chief Executive Officer and President

END OF SELLER SIGNATURES

*[Signature pages to Purchase and Sale Agreement]*

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IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto, as of the Effective Date.

**PURCHASER:**

**Highwoods Realty Limited Partnership**, a North Carolina limited partnership

By: Highwoods Properties, Inc., a Maryland corporation, its Sole General Partner

By: /s/ Jeffrey D. Miller

Name: Jeffrey D. Miller

Title: Executive Vice President & General Counsel

Federal Tax Identification

No.: 56-1869557

*[Signature pages to Purchase and Sale Agreement]*

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT**

I, Theodore J. Klinck, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Highwoods Properties, 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 officers 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 officers 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: July 27, 2021

/s/ Theodore J. Klinck

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Theodore J. Klinck  
President and Chief Executive Officer

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT**

I, Mark F. Mulhern, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Highwoods Properties, 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 officers 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 officers 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: July 27, 2021

/s/ Mark F. Mulhern

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Mark F. Mulhern  
Executive Vice President and Chief Financial Officer

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT**

I, Theodore J. Klinck, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Highwoods Realty Limited Partnership;
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 officers 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 officers 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: July 27, 2021

/s/ Theodore J. Klinck

Theodore J. Klinck  
President and Chief Executive Officer of the General Partner

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT**

I, Mark F. Mulhern, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Highwoods Realty Limited Partnership;
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 officers 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 officers 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: July 27, 2021

/s/ Mark F. Mulhern

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Mark F. Mulhern  
Executive Vice President and Chief Financial Officer of the General Partner

**CERTIFICATION PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT**

In connection with the Quarterly Report of Highwoods Properties, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Theodore J. Klinck, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- 1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Theodore J. Klinck

Theodore J. Klinck  
President and Chief Executive Officer  
July 27, 2021



**CERTIFICATION PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT**

In connection with the Quarterly Report of Highwoods Properties, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Mark F. Mulhern, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- 1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Mark F. Mulhern

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Mark F. Mulhern  
Executive Vice President and Chief Financial Officer  
July 27, 2021

**CERTIFICATION PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT**

In connection with the Quarterly Report of Highwoods Realty Limited Partnership (the "Operating Partnership") on Form 10-Q for the period ended June 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Theodore J. Klinck, President and Chief Executive Officer of Highwoods Properties, Inc., general partner of the Operating Partnership, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- 1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Operating Partnership.

/s/ Theodore J. Klinck

Theodore J. Klinck  
President and Chief Executive Officer of the General Partner  
July 27, 2021

**CERTIFICATION PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT**

In connection with the Quarterly Report of Highwoods Realty Limited Partnership (the "Operating Partnership") on Form 10-Q for the period ended June 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Mark F. Mulhern, Executive Vice President and Chief Financial Officer of Highwoods Properties, Inc., general partner of the Operating Partnership, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- 1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Operating Partnership.

/s/ Mark F. Mulhern

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Mark F. Mulhern  
Executive Vice President and Chief Financial Officer of the General Partner  
July 27, 2021