Important notice

THIS OFFERING IS AVAILABLE ONLY TO INVESTORS WHO ARE EITHER (1) QUALIFIED INSTITUTIONAL BUYERS ("QIBs") UNDER RULE 144A UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR (2) NON-U.S. PERSONS OUTSIDE OF THE UNITED STATES (WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT) (AND, IF INVESTORS ARE RESIDENT IN A MEMBER STATE OF THE EUROPEAN ECONOMIC AREA (THE "EEA") OR IN THE UNITED KINGDOM, QUALIFIED INVESTORS (AS DEFINED BELOW))

IMPORTANT: You must read the following before continuing. The following applies to the Offering Memorandum following this page, and you are therefore advised to read this carefully before reading, accessing or making any other use of the Offering Memorandum. In accessing the Offering Memorandum, you agree to be bound by the following terms and conditions, including any modifications to them any time you receive any information from us as a result of such access.

NOTHING IN THIS ELECTRONIC TRANSMISSION CONSTITUTES AN OFFER OF SECURITIES FOR SALE OR A SOLICITATION OF AN OFFER TO BUY SECURITIES IN ANY JURISDICTION WHERE IT IS UNLAWFUL TO DO SO. THE SECURITIES HAVE NOT BEEN, AND WILL NOT BE, REGISTERED UNDER THE SECURITIES ACT OR THE SECURITIES LAWS OF ANY STATE OF THE U.S. OR OTHER JURISDICTION AND THE SECURITIES MAY NOT BE OFFERED OR SOLD WITHIN THE U.S. OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT), EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE LAWS OF OTHER JURISDICTIONS.

THE FOLLOWING OFFERING MEMORANDUM MAY NOT BE FORWARDED OR DISTRIBUTED TO ANY OTHER PERSON AND MAY NOT BE REPRODUCED IN ANY MANNER WHATSOEVER. ANY FORWARDING, DISTRIBUTION OR REPRODUCTION OF THIS DOCUMENT IN WHOLE OR IN PART IS UNAUTHORIZED. FAILURE TO COMPLY WITH THIS DIRECTIVE MAY RESULT IN A VIOLATION OF THE SECURITIES ACT OR THE APPLICABLE LAWS OF OTHER JURISDICTIONS.

Confirmation of your Representation: In order to be eligible to view this Offering Memorandum or make an investment decision with respect to the securities, investors must be either (1) Qualified Institutional Buyers ("QIBs") (within the meaning of Rule 144A under the Securities Act) or (2) non-U.S. persons (within the meaning of Regulation S under the Securities Act) outside the U.S.; provided that investors resident in a Member State of the EEA or in the United Kingdom must also be qualified investors as defined in Regulation (EU) 2017/1129 (the "Prospectus Regulation"). This Offering Memorandum is being sent at your request and by accepting the e-mail and accessing this Offering Memorandum, you shall be deemed to have represented to us that (1) you and any customers you represent are either (a) QIBs or (b) not U.S. persons and that the electronic mail address that you gave us and to which this Offering Memorandum has been delivered is not located in the U.S. (and if you or any such customers are resident in a Member State of the EEA or in the United Kingdom, you and they are qualified investors) and (2) that you consent to delivery of such Offering Memorandum by electronic transmission.

You are reminded that this Offering Memorandum has been delivered to you on the basis that you are a person into whose possession this Offering Memorandum may be lawfully delivered in accordance with the laws of the jurisdiction in which you are located and you may not, nor are you authorized to, deliver this Offering Memorandum to any other person.

The materials relating to the offering do not constitute, and may not be used in connection with, an offer or solicitation in any place where offers or solicitations are not permitted by law. If a jurisdiction requires that the offering be made by a licensed broker or dealer and the initial

purchasers or any affiliate of the initial purchasers is a licensed broker or dealer in that jurisdiction, the offering shall be deemed to be made by the initial purchasers or such affiliate on behalf of the Issuer in such jurisdiction.

This Offering Memorandum has been sent to you in an electronic form. You are reminded that documents transmitted via this medium may be altered or changed during the process of electronic transmission and consequently neither J.P. Morgan Securities LLC ("JPMorgan"), nor any of the initial purchasers, or Starwood Property Trust, Inc. nor any person who controls it nor any director, officer, employee nor agent of it or affiliate of any such person accepts any liability or responsibility whatsoever in respect of any difference between the Offering Memorandum distributed to you in electronic format and the hard copy version available to you on request from JPMorgan.

Starwood Property Trust, Inc.

$300,000,000

% Senior Notes due 2023

Offering price: % plus accrued interest, if any, from , 2020.

We are offering $300 million aggregate principal amount of our % Senior Notes due 2023 (the "Notes"). Interest on the Notes will accrue at the rate of % per annum. We will pay interest on the Notes semi-annually in arrears on each and , commencing on , 2021.

The Notes will mature on , 2023. Prior to , , we may redeem some or all of the Notes, at our option, at any time and from time to time at a price equal to 100% of the principal amount thereof plus the applicable "make-whole" premium as of the applicable date of redemption. On and after , , we may redeem some or all of the Notes, at our option, at any time and from time to time at a price equal to 100% of the principal amount thereof. In addition, prior to , , we may, at our option and on one or more occasions, redeem up to 40 % of the aggregate principal amount of the Notes at the applicable redemption price described under the caption "Description of the Notes—Optional Redemption" using the proceeds of certain equity offerings.

The Notes will be our senior unsecured obligations and will rank *pari passu* in right of payment with all of our existing and future senior unsecured indebtedness and senior unsecured guarantees. The Notes will be effectively subordinated in right of payment to all of our existing and future secured indebtedness and secured guarantees to the extent of the value of the assets securing such indebtedness and guarantees. In addition, the Notes will be effectively subordinated in right of payment to all existing and future indebtedness, guarantees and other liabilities (including trade payables) and any preferred equity of our subsidiaries (other than any subsidiaries that may become guarantors of the Notes). When the Notes are first issued they will not be guaranteed by any of our subsidiaries and none of our subsidiaries will be required to guarantee the Notes in the future, except under the circumstances and subject to the exceptions described under the caption "Description of the Notes—Possible Future Guarantees." The Notes will not be listed on any securities exchange or included in any quotation system.

As described under "Use of Proceeds," we intend to allocate an amount equal to the net proceeds from this offering to the financing and refinancing of recently completed and future Eligible Green and/or Social Projects (as defined herein).

Investing in the Notes involves risks, including those described in the "Risk Factors" section beginning on page 11 of this offering memorandum.

The Notes have not been, and will not be, registered under the Securities Act of 1933, as amended (the "Securities Act"), or the securities laws of any other jurisdiction. The Notes may be offered only in transactions that are exempt from registration under the Securities Act and the securities laws of any other applicable jurisdiction. Accordingly, we are offering the Notes only to persons reasonably believed to be qualified institutional buyers ("QIBs") (as that term is defined in Rule 144A under the Securities Act ("Rule 144A")) and to non-U.S. persons outside the United States in compliance with Regulation S under the Securities Act ("Regulation S"). For further details about eligible offerees and resale restrictions, see "Transfer Restrictions." The Notes will not have the benefit of any registration rights.

The Notes will be ready for delivery in book-entry form only through the facilities of The Depository Trust Company ("DTC") for the accounts of its participants, including Euroclear Bank S.A./N.V., as operator of the Euroclear System ("Euroclear"), and Clearstream Banking S.A. ("Clearstream"), on or about , 2020.

Joint Book-Running Managers

J.P. Morgan
Sustainability Bond Structuring Agent to the issuer

Barclays

BofA Securities

Citigroup

Credit Suisse

Deutsche Bank Securities

Goldman Sachs & Co. LLC

Morgan Stanley

Wells Fargo Securities

October , 2020.

You should rely only on the information contained in or incorporated by reference into this offering memorandum. We have not, and the initial purchasers of the Notes (the "Initial Purchasers") have not, authorized anyone to provide you with different or inconsistent information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not, and the Initial Purchasers are not, making an offer to sell these securities in any jurisdiction where or to any person to whom the offer or sale is not permitted. You should assume that the information contained in this offering memorandum and the documents incorporated by reference into this offering memorandum is accurate only as of their respective dates. Our business, financial condition, results of operations, liquidity and prospects may have changed since those dates.

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About this offering memorandum

This offering memorandum is a confidential document that we are providing only to prospective buyers of the Notes in places where sales are permitted and not otherwise deemed unlawful. You should read this offering memorandum carefully and thoroughly before deciding to purchase any Notes. You must not:

- use this offering memorandum or any information contained in this offering memorandum for any other purpose;
- make copies of any part of this offering memorandum or give a copy of it to any other person; or
- disclose any information in this offering memorandum to any other person;

We have prepared this offering memorandum and we are solely responsible for its contents. You are responsible for making your own examination of us and our financial condition and your own assessment of the merits and risks of investing in the Notes. You may contact us at any time if you need additional information. By purchasing any Notes, you acknowledge that:

- you have reviewed this offering memorandum and the documents incorporated by reference;
- you have had an opportunity to request from us any additional information that you need from us, and have reviewed such additional information provided; and
- the Initial Purchasers are not responsible for, and are not, making any representation to you concerning our future performance or the accuracy or completeness of this offering memorandum or the documents incorporated by reference.

We are not providing you with any legal, business, regulatory, accounting or tax advice in this offering memorandum. You should consult your own advisors to assist you in making your investment decision and to advise you whether you are legally permitted to purchase the Notes.

You must comply with all laws and regulations that apply to you in any place in which you purchase, offer or sell any Notes or possess or distribute this offering memorandum. You must also obtain, at your sole cost and expense, any consents, waivers or approvals that you need in order to purchase the Notes. Neither we nor the Initial Purchasers are responsible for your compliance with these legal requirements.

We are making this offering of the Notes in reliance upon exemptions from the registration requirements of the Securities Act. These exemptions apply to offers and sales of securities that do not involve a public offering. THE NOTES HAVE NOT BEEN RECOMMENDED, APPROVED OR DISAPPROVED BY ANY FEDERAL, STATE OR FOREIGN SECURITIES AUTHORITIES AND SUCH AUTHORITIES HAVE NOT DETERMINED THAT THIS OFFERING MEMORANDUM IS ACCURATE OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The Notes are subject to restrictions on transfer and resale which are set forth under the heading "Transfer Restrictions." By purchasing Notes, you will be deemed to have made certain acknowledgments, representations and agreements as described in that section of this offering memorandum. You may have to bear the financial risks of investing in the Notes for an indefinite period of time.

This offering memorandum contains limited summaries of provisions of certain transaction documents setting forth the obligations of the parties to the transaction and the enforcement of such obligations, including the indenture and the purchase agreement. The summaries are not complete, do not purport to be complete, and are qualified in their entirety by reference to the

provisions of such documents. Copies of this offering memorandum and the transaction documents will be made available to qualified prospective investors upon request.

The Notes will initially be available in book-entry form only. We expect that the Notes will be issued in the form of one or more registered global notes. The global notes will be deposited with, or on behalf of, DTC, and registered in its name or in the name of its nominee. Beneficial interests in the global notes will be shown on, and transfers of the beneficial interests in the global notes will be effected only through, records maintained by DTC and its direct and indirect participants. After the initial issuance of the global notes, certificated notes will be issued in exchange for global notes only in the limited circumstances set forth in the indenture governing the Notes. See "Book-Entry, Delivery and Form." In connection with this offering, the Initial Purchasers participating in this offering may engage in transactions that stabilize, maintain or otherwise affect the price of the Notes. Specifically, the Initial Purchasers may bid for and purchase Notes in the open market and may impose penalty bids. For a description of these activities, see "Plan of Distribution."

As described under "Use of Proceeds," we intend to allocate an amount equal to the net proceeds from this offering to finance or refinance, in whole or in part, recently completed or future Eligible Green and/or Social Projects (as defined herein). Pending full allocation of an amount equal to the net proceeds to Eligible Green and/or Social Projects, we intend to use the net proceeds to fund the redemption of the remaining $250 million outstanding principal amount of our February 2021 Senior Notes (as defined herein) and for general corporate purposes, which may include the repayment of outstanding indebtedness. References herein to "Initial Use of Proceeds" refer to the use of proceeds described in the preceding sentence pending full allocation of an amount equal to the net proceeds to Eligible Green and/or Social Projects.

Unless otherwise indicated or the context requires otherwise, references in this offering memorandum to "our company," "the Company," "we," "us" and "our" mean Starwood Property Trust, Inc. and its consolidated subsidiaries and variable interest entities ("VIEs").

Notice to prospective investors in the European Economic Area and the United Kingdom

This offering memorandum is not a prospectus for the purposes of the Prospectus Regulation (as defined below). This offering memorandum has been prepared on the basis that any offer of Notes in any Member State of the European Economic Area (the "EEA") or in the United Kingdom (each, a "Relevant State") will only be made to a legal entity which is a qualified investor under the Prospectus Regulation ("Qualified Investors"). Accordingly any person making or intending to make an offer in that Relevant State of Notes which are the subject of the offering contemplated in this offering memorandum may only do so with respect to Qualified Investors. Neither the Starwood Property Trust, Inc. nor the Initial Purchasers have authorized, nor do they authorize, the making of any offer of Notes other than to Qualified Investors. The expression "Prospectus Regulation" means Regulation (EU) 2017/1129.

PROHIBITION OF SALES TO EEA AND UNITED KINGDOM RETAIL INVESTORS—The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the EEA or in the United Kingdom. For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, "MiFID II"); or (ii) a customer within the meaning of Directive (EU) 2016/97, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II, or (iii) not a Qualified Investor. Consequently no key information document required by Regulation (EU) No 1286/2014 (as amended, the "PRIIPs Regulation") for offering or selling the Notes or otherwise making them available to retail investors in the EEA or in the United Kingdom has been prepared and therefore

offering or selling the Notes or otherwise making them available to any retail investor in the EEA or in the United Kingdom may be unlawful under the PRIIPs Regulation.

References to Regulations or Directives include, in relation to the United Kingdom, those Regulations or Directives as they form part of United Kingdom domestic law by virtue of the European Union (Withdrawal) Act 2018 or have been implemented in United Kingdom domestic law, as appropriate.

Notice to prospective investors in the United Kingdom

The communication of this offering memorandum and any other document or materials relating to the issue of the Notes offered hereby is not being made, and such documents and/or materials have not been approved, by an authorized person for the purposes of section 21 of the United Kingdom's Financial Services and Markets Act 2000, as amended (the "FSMA"). Accordingly, such documents and/or materials are not being distributed to, and must not be passed on to, the general public in the United Kingdom. The communication of such documents and/or materials as a financial promotion is only being made to those persons in the United Kingdom who have professional experience in matters relating to investments and who fall within the definition of investment professionals (as defined in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the "Financial Promotion Order")), or who fall within Article 49(2)(a) to (d) of the Financial Promotion Order, or who are any other persons to whom it may otherwise lawfully be made under the Financial Promotion Order (all such persons together being referred to as "relevant persons"). In the United Kingdom, the Notes offered hereby are only available to, and any investment or investment activity to which this offering memorandum relates will be engaged in only with, relevant persons. Any person in the United Kingdom that is not a relevant person should not act or rely on this offering memorandum or any of its contents.

No Securities and Exchange Commission review; no registration rights

This offering memorandum has not been and will not be reviewed by the U.S. Securities and Exchange Commission. We are not required and do not intend to register the Notes for resale under the Securities Act or the securities laws of any other jurisdiction, and we are not required and do not intend to offer to exchange the Notes for notes registered under the Securities Act or the securities laws of any other jurisdiction. The indenture that will govern the Notes has not been and will not be qualified under the Trust Indenture Act of 1939, as amended.

Cautionary statement regarding forward-looking statements

This offering memorandum and the documents incorporated by reference herein contain certain forward-looking statements, including, without limitation, statements concerning our operations, economic performance and financial condition. These forward-looking statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are developed by combining currently available information with our beliefs and assumptions and are generally identified by the words "believe," "expect," "anticipate" and other similar expressions. Forward-looking statements do not guarantee future performance, which may be materially different from that expressed in, or implied by, any such statements. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of their respective dates.

These forward-looking statements are based largely on our current beliefs, assumptions and expectations of our future performance, taking into account all information currently available to us. These beliefs, assumptions and expectations can change as a result of many possible events or factors, not all of which are known to us or within our control, and which could materially affect actual results, performance or achievements. Factors that may cause actual results to vary from our forward-looking statements include, but are not limited to:

- factors described in the section captioned "Risk Factors" in this offering memorandum, as well as factors described in our Annual Report on Form 10-K for the year ended December 31, 2019 and our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020, including those set forth under the captions "Risk Factors", "Business", and "Management's Discussion and Analysis of Financial Condition and Results of Operations";
- the severity and duration of the pandemic of the novel strain of coronavirus ("COVID-19"), actions that may be taken by governmental authorities to contain the COVID-19 outbreak or to treat its impact and the adverse impacts that the COVID-19 pandemic has had, and will likely continue to have, on the global economy, on the borrowers underlying our real estate-related assets and infrastructure loans and tenants of our owned properties, including their ability to make payments on their loans or to pay rent, as the case may be, and on our operations and financial performance;
- defaults by borrowers in paying debt service on outstanding indebtedness;
- impairment in the value of real estate property securing our loans or in which we invest;
- availability of mortgage origination and acquisition opportunities acceptable to us;
- potential mismatches in the timing of asset repayments and the maturity of the associated financing agreements;
- our ability to integrate our prior acquisition of the project finance origination, underwriting and capital markets business of GE Capital Global Holdings, LLC into our business and to achieve the benefits that we anticipate from the acquisition;
- national and local economic and business conditions, including continued disruption from the COVID-19 pandemic;
- general and local commercial and residential real estate property conditions;
- changes in federal government policies;
- changes in federal, state and local governmental laws and regulations;
- increased competition from entities engaged in mortgage lending and securities investing activities;

- changes in interest rates; and
- the availability of, and costs associated with, sources of liquidity.

In light of these risks and uncertainties, there can be no assurances that the results referred to in the forward-looking statements contained in this offering memorandum and the documents incorporated by reference herein will in fact occur. Except to the extent required by applicable law or regulation, we undertake no obligation to, and expressly disclaim any such obligation to, update or revise any forward-looking statements to reflect changed assumptions, the occurrence of anticipated or unanticipated events, changes to future results over time or otherwise.

Summary

This summary highlights information about us and the Notes being offered by this offering memorandum. This summary is not complete and may not contain all of the information that you should consider prior to investing in the Notes. For a more complete understanding of our company, we encourage you to read this entire document, including the information incorporated by reference into this document.

Overview

We are a Maryland corporation that commenced operations in August 2009, upon the completion of our initial public offering. We are focused primarily on originating, acquiring, financing and managing mortgage loans and other real estate investments in both the United States and Europe. As market conditions change over time, we may adjust our strategy to take advantage of changes in interest rates and credit spreads as well as economic and credit conditions.

We have four reportable business segments as of June 30, 2020 and we refer to the investments within these segments as our target assets:

- Real estate commercial and residential lending—engages primarily in originating, acquiring, financing and managing commercial first mortgages, non-agency residential mortgages, subordinated mortgages, mezzanine loans, preferred equity, commercial mortgage-backed securities ("CMBS"), residential mortgage-backed securities and other real estate and real estate-related debt investments in both the U.S. and Europe (including distressed or non-performing loans). Our residential mortgage loans are secured by a first mortgage lien on residential property and consist of non-agency residential mortgage loans that are not guaranteed by any U.S. Government agency or federally chartered corporation.
- Infrastructure lending—engages primarily in originating, acquiring, financing and managing infrastructure debt investments.
- Real estate property—engages primarily in acquiring and managing equity interests in stabilized commercial real estate properties, including multifamily properties and commercial properties subject to net leases, that are held for investment.
- Real estate investing and servicing—includes (i) a servicing business in the U.S. that manages and works out problem assets, (ii) an investment business that selectively acquires and manages unrated, investment grade and non-investment grade rated CMBS, including subordinated interests of securitization and resecuritization transactions, (iii) a mortgage loan business which originates conduit loans for the primary purpose of selling these loans into securitization transactions and (iv) an investment business that selectively acquires commercial real estate assets, including properties acquired from CMBS trusts.

Our segments exclude the consolidation of securitization VIEs.

We seek to attain attractive risk-adjusted returns for our investors over the long term by sourcing and managing a diversified portfolio of target assets, financed in a manner that is designed to deliver attractive returns across a variety of market conditions and economic cycles.

We are organized and conduct our operations to qualify as a real estate investment trust (a "REIT") under the Internal Revenue Code of 1986, as amended (the "Code"). We also operate our business in a manner that permits us to maintain our exemption from registration under the Investment Company Act of 1940, as amended.

We are organized as a holding company and conduct our business primarily through our various wholly-owned subsidiaries. We are externally managed and advised by SPT Management, LLC (our

"manager") pursuant to the terms of a management agreement. Our manager is controlled by Barry Sternlicht, our Chairman and Chief Executive Officer. Our manager is an affiliate of Starwood Capital Group Global, L.P. ("Starwood Capital Group"), a privately-held private equity firm founded by Mr. Sternlicht.

Our corporate headquarters office is located at 591 West Putnam Avenue, Greenwich, Connecticut 06830, and our telephone number is (203) 422-7700.

Recent developments

Preliminary unaudited results for the three months ended September 30, 2020. As of the date of this offering memorandum, we are providing preliminary, unaudited results for the three months ended September 30, 2020 based on currently available information. Our independent auditor has not completed a review of these preliminary estimated financial results. Our actual results may vary from the preliminary results, and such variance may be material. In addition, these preliminary results are not necessarily indicative of results to be expected for any future period, including the year ending December 31, 2020. This preliminary financial data has been prepared by us and is our own responsibility. We have not fully completed our review of these preliminary financial results for the three months ended September 30, 2020.

During the three months ended September 30, 2020, we declared a dividend of $0.48 per share and expect earnings per diluted share in accordance with accounting principles generally accepted in the United States of America ("GAAP") to be in the range $0.51 to $0.53, with Core Earnings per diluted share (a non-GAAP financial measure) in the range of $0.49 to $0.51. See below for an important discussion regarding Core Earnings, including a reconciliation of estimated GAAP earnings to estimated Core Earnings per diluted share.

During the three months ended September 30, 2020, 97% of interest payments due on our commercial loan portfolio were current. We collected 100% of interest payments due on our infrastructure loan portfolio. On our property portfolio, rent collections averaged 96% for the months of July and August, and 92% of September rents have been collected through September 30, 2020.

We estimate our book value as of September 30, 2020 to be approximately $4.51 billion, or $15.85 to $15.87 per share as of September 30, 2020. Book value and book value per share as of June 30, 2020 were $4.49 billion and $15.79, respectively. We estimate our undepreciated book value per share to be approximately $17.16 to $17.18 as of September 30, 2020 compared to $17.03 as of June 30, 2020.

During the quarter ended September 30, 2020, we funded $1.5 billion of new investments and $273 million under pre-existing loan commitments. These investments, net of repayments and securitization proceeds received in the quarter, were principally made using our secured financing agreements, resulting in an increase in net borrowings of $780 million during the quarter. As a result, we expect to have an adjusted debt-to-equity ratio[1] of 2.1x as of September 30, 2020, a slight increase from 2.0x at June 30, 2020. The ratio of unencumbered assets to unsecured debt is expected to be 1.5x as of September 30, 2020.

As of October 12, 2020, we had $664 million of liquidity, including $473 million of cash and $191 million of approved but undrawn capacity on our secured financing agreements. During the quarter ended September 30, 2020, we extended maturities on seven facilities with an aggregate maximum facility size of $5.1 billion, including $4.6 billion related to commercial lending facilities and $500 million related to infrastructure lending facilities.

[1] Represents (i) total outstanding secured and unsecured financing arrangements (excluding the non-recourse collateralized loan obligations), less cash and restricted cash, divided by (ii) undepreciated equity.

Non-GAAP financial measures

Reconciliation of estimated GAAP earnings per diluted share to estimated Core Earnings per diluted share

The table below reconciles our estimated range of GAAP earnings per diluted share to our estimated range of Core Earnings per diluted share, for the three months ended September 30, 2020.

	Three months ended September 30, 2020
	Preliminary
	(Unaudited)
Estimated GAAP Earnings per Diluted Share	$ 0.51 – 0.53
Add / (Deduct):	
Non-cash items	0.10 – 0.12
Unrealized (gains)/losses, net	(0.12) – (0.14)
Estimated Core Earnings per Diluted Share	$ 0.49 – 0.51

Core Earnings is a non-GAAP financial measure. We calculate Core Earnings as GAAP net income (loss) excluding the following: (i) non-cash equity compensation expense; (ii) incentive fees due under our external management agreement; (iii) depreciation and amortization of real estate and associated intangibles; (iv) acquisition costs associated with successful acquisitions; (v) any unrealized gains, losses or other non-cash items recorded in net income (loss) for the period, regardless of whether such items are included in other comprehensive income or loss, or in net income (loss); and (vi) any deductions for distributions payable with respect to equity securities of subsidiaries issued in exchange for properties or interests therein.

We believe that Core Earnings provides an additional measure of our core operating performance by eliminating the impact of certain non-cash expenses and facilitating a comparison of our financial results to those of other comparable REITs with fewer or no non-cash adjustments and comparison of our own operating results from period to period. Our management uses Core Earnings in this way, and also uses Core Earnings to compute the incentive fee due under our external management agreement. We believe that our investors also use Core Earnings or a comparable supplemental performance measure to evaluate and compare our performance with the performance of our peers, and as such, we believe that the disclosure of Core Earnings is useful to (and expected by) our investors.

However, we caution that Core Earnings does not represent cash generated from operating activities in accordance with GAAP and should not be considered as an alternative to net income (loss) (determined in accordance with GAAP), or an indication of our cash flows from operating activities (determined in accordance with GAAP), a measure of our liquidity, or an indication of funds available to fund our cash needs, including our ability to make cash distributions. In addition, our methodology for calculating Core Earnings may differ from the methodologies employed by other REITs to calculate the same or similar supplemental performance measures, and accordingly, our reported Core Earnings may not be comparable to the Core Earnings reported by other REITs.

COVID-19 pandemic. We are continuing to monitor the COVID-19 pandemic and its impact on us, the borrowers underlying our commercial and residential real estate-related loans and infrastructure loans (and their tenants), the tenants in the properties we own, our financing sources, and the economy as a whole. Because the severity, magnitude and duration of the

COVID-19 pandemic and its economic consequences are uncertain, rapidly changing and difficult to predict, the pandemic's impact on us, which could be significant, remains uncertain and difficult to predict.

In our commercial lending portfolio,12 payment related loan modifications have been executed to date, representing an aggregate principal balance of $1.3 billion, and resulting in net interest deferrals of $10.6 million during the three months ended September 30, 2020. These loan modifications principally included temporary deferrals of interest and the repurposing of reserves, many of which were coupled with additional equity commitments from sponsors. While we believe the principal amounts of our loans are generally adequately protected by underlying collateral value, there is a risk that we will not realize the entire principal value of certain investments.

Within residential lending, we continue to monitor the impact of forbearance arrangements granted by the master servicer. For securitization structures containing advancing arrangements, the master servicer has continued to advance 100% of all unpaid principal and interest.

In our property portfolio, rent collections averaged 96% for the months of July and August, with 92% of September rents collected through September 30, 2020. Collections were particularly strong in the Woodstar I and Woodstar II affordable housing portfolios, which averaged 97% collections in July and August. Given current demographic trends, which tend to favor flexible rental arrangements, we continue to see sustained demand in multifamily and decreased turnover.

In our infrastructure lending portfolio, 100% of interest due during the three months ended September 30, 2020 was collected. The borrowers did not request, nor did we grant, any payment related loan modifications during the three months ended September 30, 2020.

For a further description of certain risks relating to the COVID-19 pandemic, see the section entitled "Risk Factors" in our Quarterly Report on Form 10-Q for the quarter ended June 30, 2020, which is incorporated by reference into this offering memorandum.

Conditional notice of partial redemption of 3.625% Senior Notes due 2021. On October 2, 2020, we issued a conditional notice of partial redemption to the holders of our 3.625% Senior Notes due 2021 (our "February 2021 Senior Notes") indicating that we have elected to redeem 50% (i.e., $250 million) of our outstanding February 2021 Senior Notes on November 2, 2020. The partial redemption of the February 2021 Senior Notes is conditioned on the closing, on or prior to the redemption date, of the Term Loan B described below, which closed on October 16, 2020.

Term Loan B. On September 21, 2020, Starwood Property Mortgage, L.L.C. ("SPM"), our wholly owned subsidiary, priced a $250 million term loan ("Term Loan B") to be issued pursuant to that certain Term Loan Credit Agreement, dated as of July 26, 2019, among SPM, as borrower, us, as parent, the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., an affiliate of one of the Initial Purchasers, as administrative agent. The Term Loan B priced at LIBOR plus 350 basis points, matures in July 2026 (coterminous with SPM's existing $400 million term loan B), and is callable at any time. The Term Loan B closed on October 16, 2020.

Dividend declaration. On September 16, 2020, our Board of Directors declared a dividend of $0.48 per share of common stock for the quarter ended September 30, 2020. The dividend was paid on October 15, 2020 to stockholders of record as of September 30, 2020.

The offering

The following information is provided solely for your convenience and is not complete. You should read the information appearing in this offering memorandum under the captions "Risk Factors," "Description of the Notes," "Book-Entry, Delivery and Form" and "Transfer Restrictions" for additional information concerning the terms of the Notes and the risks of investing in the Notes, as well as the other information contained and incorporated by reference in this offering memorandum. For purposes of the information appearing under this caption "The Offering," references to "Starwood Property Trust, Inc.," "the Company," "we," "our" and "us" refer only to Starwood Property Trust, Inc. and not its subsidiaries or any entities that are consolidated with us for financial reporting purposes, unless otherwise expressly stated or the context otherwise requires. Certain capitalized terms used under this caption "The Offering" are defined under "Description of the Notes."

Issuer	Starwood Property Trust, Inc.
Securities offered	$300 million aggregate principal amount of % Senior Notes due 2023.
Maturity	Unless redeemed earlier, the Notes will mature on, , 2023
Interest rate	The Notes will bear interest at the rate of % per year (calculated. on the basis of a 360-day year comprised of twelve 30-day months), accruing from , 2020.
Interest payment dates	Interest on the Notes will be paid semi-annually in arrears on each and , commencing , 2021.
Possible future Guarantees	When the Notes are first issued they will not be guaranteed by any of our subsidiaries and none of our subsidiaries will be required to guarantee the Notes in the future, except that, under the circumstances and subject to the exceptions set forth in the covenant described under the caption "Description of the Notes—Possible Future Guarantees," one or more of our Domestic Subsidiaries (excluding Domestic Subsidiaries that are Excluded Subsidiaries or Securitization Entities) may be required to guarantee the payment of the Notes. Any such guarantees ("Guarantees") of the Notes will be the senior unsecured obligations of the respective Domestic Subsidiary guarantors (the "Guarantors"). You should review the definitions of Domestic Subsidiary, Excluded Subsidiary, Foreign Subsidiary and Securitization Entity appearing under the caption "Description of the Notes—Certain Definitions" for information about which of our subsidiaries will not be subject to the foregoing covenant to guarantee the Notes. If any of our Domestic Subsidiaries guarantees the Notes, such Guarantor's Guarantee of the Notes

and all other obligations of such Guarantor under the Indenture will automatically terminate and such Guarantor will automatically be released from all of its obligations under such Guarantee and the Indenture under certain circumstances described under the caption "Description of the Notes—Possible Future Guarantees," which may include the permanent termination and release of such Guarantee and obligations under the circumstances described below under "Covenant Termination." For additional information, see "Description of the Notes—Possible Future Guarantees" and "Description of the Notes—Certain Covenants—Covenant Termination."

Ranking . . . . . The Notes will be:

- our senior unsecured obligations;
- *pari passu* in right of payment with all of our existing and future senior unsecured indebtedness and senior unsecured guarantees;
- effectively subordinated in right of payment to all of our existing and future secured indebtedness and secured guarantees to the extent of the value of the assets securing such indebtedness and guarantees;
- senior in right of payment to any of our future subordinated indebtedness and subordinated guarantees; and
- effectively subordinated in right of payment to all existing and future indebtedness, guarantees and other liabilities (including trade payables) and any preferred equity of our subsidiaries (other than any Domestic Subsidiaries that may become Guarantors of the Notes).

If any of our Subsidiaries becomes a Guarantor of the Notes, its Guarantee of the Notes will be:

- a senior unsecured obligation of such Guarantor;
- *pari passu* in right of payment with all existing and future senior unsecured indebtedness and senior unsecured guarantees of such Guarantor;
- effectively subordinated in right of payment to all existing and future secured indebtedness and secured guarantees of such Guarantor to the extent of the value of the assets securing such indebtedness and guarantees; and

	• senior in right of payment to any future subordinated indebtedness and subordinated guarantees of such Guarantor. As of June 30, 2020, we had approximately $10.8 billion of total consolidated indebtedness (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments), of which approximately $8.8 billion was secured indebtedness. Of that $10.8 billion of total consolidated indebtedness, approximately $8.8 billion was indebtedness of our subsidiaries, all of which was secured indebtedness. As of June 30, 2020, on a pro forma basis after giving effect to (1) the issuance and sale of the Notes in this offering, (2) the Initial Use of Proceeds (as defined below), (3) the closing of the Term Loan B and (4) the use of Term Loan B proceeds to fund the partial redemption on November 2, 2020 of our February 2021 Senior Notes, we would have had approximately $10.8 billion of total consolidated indebtedness (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments), of which approximately $9.0 billion would have been secured indebtedness. Of that $10.8 billion of pro forma total consolidated indebtedness, approximately $9.0 billion would have been indebtedness of our subsidiaries, all of which would have been secured indebtedness. For additional information, see "Use of Proceeds" and "Capitalization."
Optional redemption	Prior to , , we may redeem some or all of the Notes, at our option, at any time and from time to time at a price equal to 100% of the principal amount thereof, plus the applicable "make-whole" premium as of, and accrued but unpaid interest, if any, to, but excluding, the applicable date of redemption. On and after , , we may redeem some or all of the Notes, at our option, at any time and from time to time at a price equal to 100% of the principal amount thereof plus accrued but unpaid interest, if any, to, but excluding, the applicable date of redemption. In addition, prior to , , we may, at our option and on one or more occasions, redeem up to 40% of the aggregate principal amount of Notes using the proceeds of certain equity offerings at a price equal to % of the principal amount thereof, plus accrued but unpaid interest, if any, to, but excluding, the applicable date of redemption.

Change of Control Offer	If a Change of Control Triggering Event occurs, we will be required (unless we have exercised our right to redeem all of the Notes by sending a notice of redemption) to offer to repurchase all of the outstanding Notes at a purchase price equal to 101% of the principal amount thereof plus accrued and unpaid interest to, but excluding, the applicable Change of Control Payment Date.
Indenture; Certain covenants	The Notes will be issued under an indenture (as the same may be amended or supplemented from time to time, the "Indenture") between us and The Bank of New York Mellon, as trustee (the "Trustee"). The Indenture will contain covenants that, among other things: • limit the ability of us and our subsidiaries to incur additional indebtedness; • require that we maintain Total Unencumbered Assets of not less than 120% of the aggregate principal amount of the outstanding Unsecured Indebtedness of us and our subsidiaries, in each case determined on a consolidated basis; and • impose certain requirements in order for us to merge or consolidate with or transfer all or substantially all of our assets to another person. These covenants are subject to a number of important exceptions and limitations, and we and our subsidiaries will have the ability to incur substantial amounts of additional secured and unsecured indebtedness notwithstanding these covenants. See "Description of the Notes—Certain Covenants."
Covenant termination	The covenants in the Indenture limiting our and our subsidiaries' ability to incur additional indebtedness, as well as the covenant described above under "— Possible Future Guarantees" (other than the portions of such covenant limiting the obligations of each Guarantor, if any, under its Guarantee of the Notes to prevent such obligations from constituting a fraudulent conveyance or fraudulent transfer under applicable law and the portions of such covenant relating to the release of any Guarantor from its Guarantee of the Notes), certain portions of the covenant limiting our ability to merge or consolidate with or transfer all or substantially all of our assets to another person and, if any of our subsidiaries has guaranteed the Notes, all of such Guarantees and all of the obligations of the Guarantors under the Indenture,

	will automatically and permanently terminate and will be of no further force or effect, and we will be automatically and permanently released from our obligations under such covenants (and the Guarantors, if any, will be automatically and permanently released from their Guarantees of the Notes and all of their obligations under the Indenture) on and after any date that (a) the Notes have Investment Grade Ratings from each of two specified rating agencies and (b) no Default or Event of Default has occurred and is continuing. See "Description of the Notes—Certain Covenants—Covenant Termination."
No registration rights	We are not required and do not intend to register the Notes for resale under the Securities Act or the securities laws of any other jurisdiction, and we are not required and do not intend to offer to exchange the Notes for notes registered under the Securities Act or the securities laws of any other jurisdiction.
Transfer restrictions	We have not registered the Notes under the Securities Act or any state or other securities laws. The Notes are subject to restrictions on transfer and may only be offered or sold in transactions exempt from or not subject to the registration requirements of the Securities Act and other applicable securities laws. See "Transfer Restrictions."
No prior market	The Notes will be new securities for which there is currently no market. Although certain of the Initial Purchasers have informed us that they intend to make a market in the Notes, they are not obligated to do so, and they may discontinue market making activities at any time without notice. Accordingly, we cannot assure you that a liquid market for the Notes will develop or be maintained.
No listing	The Notes will not be listed on any securities exchange or included in any quotation system.
Book-entry form	The Notes will be issued in book-entry form and will be represented by one or more global certificates deposited with, or on behalf of, DTC and registered in its name or in the name of its nominee. Beneficial interests in the global Notes will be shown on, and transfers will be effected only through, records maintained by DTC or its nominee and such interests may not be exchanged for certificated Notes, except in limited circumstances.
Use of proceeds	We estimate that the net proceeds from this offering will be approximately $ million,

	after deducting the Initial Purchasers' discounts and commissions and other estimated offering expenses payable by us. We intend to allocate an amount equal to the net proceeds from this offering to finance or refinance, in whole or in part, recently completed or future Eligible Green and/or Social Projects (as defined in "Use of Proceeds"). Net proceeds allocated to previously incurred costs associated with Eligible Green and/or Social Projects will be available for the repayment of indebtedness previously incurred. Pending full allocation of an amount equal to the net proceeds to Eligible Green and/or Social Projects, we intend to use the net proceeds to fund the redemption of the remaining $250 million outstanding principal amount of our February 2021 Senior Notes (assuming the completion of the partial redemption of $250 million outstanding principal amount of our February 2021 Senior Notes on November 2, 2020, as described above under "—Recent Developments—Conditional Notice of Partial Redemption of 3.625% Senior Notes Due 2021"), and for general corporate purposes, which may include the repayment of outstanding indebtedness (such initial use of proceeds, the "Initial Use of Proceeds"). See "Use of Proceeds."
Risk factors	An investment in the Notes involves risks, and prospective investors should carefully consider the matters discussed under "Risk Factors" beginning on page 11 of this offering memorandum and in the reports we file with the SEC pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), incorporated by reference into this offering memorandum, before making a decision to invest in the Notes.

Risk factors

Investing in the Notes involves risks. You should carefully read and consider the risks described below as well as the risks described in the sections entitled "Item 1. Business" and "Item 1A. Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2019, as supplemented by the section entitled "Item 1A. Risk Factors" in our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020, each of which is incorporated by reference into this offering memorandum. You should also carefully read and consider the sections entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in our Annual Report on Form 10-K for the year ended December 31, 2019 and Quarterly Reports on Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020 and other information contained in and incorporated by reference into this offering memorandum, as well as risks described above in "Cautionary Statement Regarding Forward-Looking Statements," and the uncertainties described above under "Summary—Recent Developments" with respect to the use of preliminary financial information, before making a decision to invest in the Notes. Each of these risks could materially and adversely affect our business, financial condition, results of operations, liquidity and prospects and could result in a partial or complete loss of your investment. To the extent the COVID-19 pandemic adversely affects our business, operations, financial condition and operating results, it may also have the effect of heightening many of the other risks described in this "Risk Factors" section and those described in our Annual Report on Form 10-K for the year ended December 31, 2019 and Quarterly Reports on Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020, which are incorporated by reference in this offering memorandum. Certain capitalized terms used in this "Risk Factors" section and not defined previously in this offering memorandum are defined under the caption "Description of the Notes."

Risks related to the notes and to this offering

Our substantial indebtedness could adversely affect our business, financial condition or results of operations and prevent us from fulfilling our obligations under the Notes.

We currently have and, after this offering, will continue to have a significant amount of indebtedness. As of June 30, 2020, our total consolidated indebtedness was approximately $10.8 billion (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments). As of June 30, 2020, on a pro forma basis after giving effect to (1) the issuance and sale of the Notes in this offering, (2) the Initial Use of Proceeds, (3) the closing of the Term Loan B and (4) the use of Term Loan B proceeds to fund the partial redemption on November 2, 2020 of our February 2021 Senior Notes, we would have had approximately $10.8 billion of total consolidated indebtedness (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments). For additional information, see "Use of Proceeds" and "Capitalization." This substantial level of indebtedness increases the risk that we may be unable to generate enough cash to pay amounts due in respect of our indebtedness, including the Notes.

Our substantial indebtedness could have important consequences to you and significant effects on our business. For example, it could:

- make it more difficult for us to satisfy our obligations with respect to the Notes;
- increase our vulnerability to general adverse economic and industry conditions;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow to fund working capital, capital expenditures, our strategic growth initiatives and development efforts and other general corporate purposes;

- limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate;
- restrict us from exploiting business opportunities;
- place us at a competitive disadvantage compared to our competitors that have less indebtedness; and
- limit our ability to borrow additional funds for working capital, capital expenditures, acquisitions, debt service requirements, execution of our business strategy or other general corporate purposes.

Moreover, the financial covenants in the Indenture are subject to numerous exceptions and permit us to incur indebtedness subject to, among other exceptions, compliance with certain financial ratios and we and our subsidiaries will likely be able to incur substantial additional secured and unsecured indebtedness without violating such covenants. In addition, the Indenture will not impose any limitation on the incurrence or issuance by us or our subsidiaries of liabilities that are not considered Indebtedness and the financial covenants in the Indenture will not apply to VIEs because, under the Indenture, they will not be considered to be our Subsidiaries, and the Indenture will allow us to deconsolidate VIEs for purposes of, among other things, determining compliance with the financial covenants and the amount of our Indebtedness.

In addition, the agreements that govern our current indebtedness contain, and the agreements that may govern any future indebtedness that we may incur may contain, financial and other restrictive covenants that will limit our ability to engage in activities that may be in our long-term best interests. Furthermore, the Indenture will not restrict us or our subsidiaries from paying dividends or making other distributions on our securities, repurchasing capital stock or indebtedness or making investments, which could adversely impact our ability to make payments on the Notes. For information regarding the amount of secured and unsecured indebtedness of us and certain of our subsidiaries, see "—The Notes and any Guarantees will be unsecured and effectively subordinated in right of payment to our existing and future secured indebtedness and secured guarantees to the extent of the value of the assets securing such indebtedness and guarantees" and "—The Notes will be effectively subordinated in right of payment to the indebtedness, guarantees and other liabilities (including trade payables) and preferred equity of our subsidiaries that do not guarantee the Notes and any of our subsidiaries that guarantees the Notes will also be required to guarantee certain debt in addition to the Notes" below.

Despite our current indebtedness levels, we may still be able to incur substantially more indebtedness, including secured debt. This could exacerbate the risks associated with our substantial leverage.

We may be able to incur substantial additional indebtedness in the future, including debt under the Existing Credit Agreements, the Existing Repurchase Agreements and any future credit and repurchase agreements that we or our subsidiaries may enter into. In particular, as of June 30, 2020, approximately $9.5 billion (of which $640.9 million has been approved but remains undrawn), was available in the aggregate to be borrowed under the Existing Credit Agreements and the Existing Repurchase Agreements, subject to certain conditions. We and our subsidiaries may also be able to incur additional secured debt, which would be effectively senior in right of payment to the Notes and, in the case of any subsidiaries that guarantee the Notes, their Guarantees of the Notes to the extent of the value of the assets securing such indebtedness. Our organizational documents contain no limitations regarding the maximum level of indebtedness that we may incur. The Indenture will restrict us and our subsidiaries from incurring additional debt, but these restrictions are subject to numerous exceptions and permit us and our subsidiaries to incur indebtedness subject to compliance with certain financial ratios and under other exceptions to these restrictions, and we and our subsidiaries will retain the ability to incur substantial amounts

of secured and unsecured indebtedness without violating these restrictions. In addition, the Indenture will not prevent us or our subsidiaries from incurring liabilities that do not constitute Indebtedness and the financial covenants in the Indenture will not apply to VIEs because, under the Indenture, they will not be considered to be our Subsidiaries and the Indenture will allow us to deconsolidate VIEs for purposes of, among other things, determining compliance with the financial covenants and the amount of our Indebtedness. See "Description of the Notes." If new debt or other liabilities are added to our current debt levels, the related risks that we now face could intensify.

If we default in our obligations under the instruments governing our other indebtedness, we may not be able to make payments on the Notes.

A failure by us to comply with our contractual obligations (including restrictive, financial and other covenants), to pay our indebtedness and fixed costs or to post collateral (including under hedging arrangements) could result in a variety of material adverse consequences, including a default under our indebtedness (including the Notes) and the exercise of remedies by our creditors, lessors and other contracting parties, and such defaults could trigger additional defaults under other indebtedness or agreements.

In the event of such default, the holders of such indebtedness could, in general, elect to declare all of such indebtedness to be immediately due and payable, together with accrued and unpaid interest, and, in the case of secured indebtedness, seize and sell the collateral securing that indebtedness. If our operating performance declines, we may need to seek waivers from the holders of our indebtedness to avoid being in default under the instruments governing such indebtedness. If we breach our covenants under our indebtedness, we may not be able to obtain a waiver from the holders of such indebtedness on terms acceptable to us or at all. If this occurs, we would be in default under such indebtedness, and the holders of such indebtedness and lenders could exercise their rights as described above, and we could be forced into bankruptcy or liquidation. A default under the agreements governing our existing or future indebtedness and the remedies sought by the holders of such indebtedness could make us unable to pay principal of, or premium, if any, and interest on the Notes, which may result in the loss of some or all of your investment.

Our ability to repay our debt, including the Notes, depends on the performance of our subsidiaries and their ability to make distributions to us.

As a holding company, substantially all of our business is conducted through our subsidiaries, which are separate and distinct legal entities and, except in the case of our subsidiaries, if any, that may guarantee the Notes in the future under the circumstances described under "Description of the Notes—Possible Future Guarantees," have no contractual or other obligations to make payments due on the Notes or to provide funds to us for that purpose. Therefore, our ability to service our indebtedness, including the Notes, and to meet our other cash needs is dependent on the earnings of, and the distribution of funds (whether by dividend, distribution, loan or otherwise) to us by, our subsidiaries. The availability of funds from our subsidiaries will depend upon, among other things, their operating results, financial condition and legal or contractual restrictions on their ability to pay dividends and distributions or make loans to us. We cannot assure you that our subsidiaries will have sufficient funds, or that the agreements governing the existing and future indebtedness of our subsidiaries will not restrict or prevent our subsidiaries from providing us with sufficient funds, to make payments on the Notes when due and to meet our other cash needs, and the Indenture will not restrict our subsidiaries from entering into such restrictive agreements. In addition, any payment of dividends, distributions or loans to us by our subsidiaries that may be organized or doing business outside of the United States could be subject to restrictions on dividends or repatriation of earnings under applicable local law and monetary transfer restrictions in the jurisdictions in which our subsidiaries operate and, even if we are able to

repatriate funds from foreign subsidiaries, the repatriation of those funds may be subject to significant taxes. Furthermore, we guarantee many of the obligations of our subsidiaries and such guarantees may require us to provide substantial funds or assets to our subsidiaries or their creditors at a time when we need liquidity to fund our own obligations, such as the Notes.

In addition, any right that we have to receive any assets of or distributions from any subsidiary upon its bankruptcy, insolvency, liquidation, reorganization, dissolution or winding-up, or to realize proceeds from the sale of the assets of any subsidiary, would be junior to the claims of that subsidiary's creditors, including trade creditors, and to holders of any preferred equity issued by that subsidiary or any indebtedness or other liabilities guaranteed by that subsidiary.

The Notes will be effectively subordinated in right of payment to the indebtedness, guarantees and other liabilities (including trade payables) and preferred equity of our subsidiaries that do not guarantee the Notes and any of our subsidiaries that guarantees the Notes will also be required to guarantee certain debt in addition to the Notes.

When the Notes are first issued they will not be guaranteed by any of our subsidiaries and none of our subsidiaries will be required to guarantee the Notes in the future, except under the circumstances set forth in the covenant described in "Description of the Notes—Possible Future Guarantees." Moreover, certain classes of our subsidiaries (namely Excluded Subsidiaries, Securitization Entities and Foreign Subsidiaries) are excluded from any requirement to guarantee the Notes and any subsidiary that does guarantee the Notes may be released from its guarantee of the Notes under the circumstances described under "Description of the Notes—Possible Future Guarantees" or its guarantee of the Notes may automatically and permanently terminate under the circumstances described under "Description of the Notes—Certain Covenants—Covenant Termination." See, also, the definitions of Excluded Subsidiary, Securitization Entity and Foreign Subsidiary under the caption "Description of the Notes—Certain Definitions."

Our Non-Guarantor Subsidiaries will have no obligation, contingent or otherwise, to pay amounts due on the Notes or to make any funds available to us to pay these amounts, whether by dividend, distribution, loan or otherwise. Accordingly, the Notes will be effectively subordinated in right of payment to all existing and future indebtedness, guarantees and other liabilities (including trade payables) and preferred equity of our Non-Guarantor Subsidiaries. As a result, in the event of bankruptcy, insolvency, liquidation, reorganization, dissolution or winding-up of any such Non-Guarantor Subsidiary, all of its creditors (including trade creditors) and all holders of its preferred equity and any indebtedness or other liabilities guaranteed by such Non-Guarantor Subsidiary would be entitled to payment in full out of its assets before we would be entitled to any payment.

If any of our subsidiaries guarantees the Notes, the terms of the Existing Convertible Senior Notes require that such subsidiary also guarantee the Existing Convertible Senior Notes, and we may in the future enter into other debt instruments with similar requirements. In addition, the Existing Senior Notes include a covenant substantially similar to the covenant described under "Description of the Notes—Possible Future Guarantees," which could require any of our Domestic Subsidiaries (other than Excluded Subsidiaries and Securitization Entities) that guarantees the Notes offered hereby to also guarantee the Existing Senior Notes. As of June 30, 2020, $250.0 million in aggregate principal amount of Existing Convertible Senior Notes was outstanding and $1.7 billion aggregate principal amount of our Existing Senior Notes were outstanding.

Certain of our subsidiaries are borrowers or guarantors under the Existing Credit Agreements and the Existing Repurchase Agreements. As of June 30, 2020, our subsidiaries had approximately $8.8 billion of indebtedness (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments). As of June 30, 2020, on a pro forma basis after giving effect to (1) the issuance and sale of the Notes in this offering, (2) the Initial Use of Proceeds, (3) the closing of the Term Loan B and (4) the use of Term Loan B proceeds to fund the

partial redemption on November 2, 2020 of our February 2021 Senior Notes, our subsidiaries would have had approximately $9.0 billion of indebtedness (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments). For additional information, see "Use of Proceeds" and "Capitalization."

The Notes and any Guarantees will be unsecured and effectively subordinated in right of payment to all existing and future secured indebtedness and secured guarantees of us and any Guarantors, respectively, to the extent of the value of the assets securing such secured indebtedness and secured guarantees.

The Notes and any Guarantees of the Notes by our subsidiaries will be unsecured and therefore will not have the benefit of any collateral. Accordingly, the Notes and any Guarantees of the Notes will be effectively subordinated in right of payment to all existing and future secured indebtedness and secured guarantees of us and any Guarantors, respectively, to the extent of the value of the assets securing such secured indebtedness and secured guarantees. In that event, the assets securing such secured indebtedness and secured guarantees would first be used to repay in full all indebtedness, guarantees and other obligations secured by them, resulting in all or a portion of our assets or the assets of any Guarantor being unavailable to satisfy the claims of the holders of the Notes and other unsecured indebtedness. Therefore, in the event of any distribution or payment of our assets or the assets of any Guarantor in any insolvency, dissolution, winding-up, liquidation, reorganization or other bankruptcy proceeding, holders of the Notes will participate in our remaining assets or the remaining assets of such Guarantor, as applicable, ratably with all holders of unsecured indebtedness, unsecured guarantees or other unsecured obligations (including trade payables) of us or such Guarantor, as applicable. In any of the foregoing events, we cannot assure you that there will be sufficient assets, or any assets, to pay amounts due on the Notes. As a result, holders of the Notes may receive less, ratably, than holders of our or our subsidiaries' secured indebtedness or secured guarantees or may receive no payments whatsoever.

As of June 30, 2020, we had total consolidated indebtedness of approximately $10.8 billion (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments), of which approximately $8.8 billion was secured indebtedness (including approximately $8.8 billion of secured indebtedness of our subsidiaries), and, on a pro forma basis after giving effect to (1) the issuance and sale of the Notes in this offering, (2) the Initial Use of Proceeds, (3) the closing of the Term Loan B and (4) the use of Term Loan B proceeds to fund the partial redemption on November 2, 2020 of our February 2021 Senior Notes, as if those transactions had occurred as of June 30, 2020, we would have had approximately $10.8 billion of total consolidated indebtedness (excluding accounts payable, accrued expenses, other liabilities, securitization VIE liabilities and unfunded commitments), of which approximately $9.0 billion would have been secured indebtedness (including approximately $9.0 billion of secured indebtedness of our subsidiaries). For additional information, see "Use of Proceeds" and "Capitalization." In addition, the Indenture will permit us to incur additional secured indebtedness subject to, among other things, our maintenance of Total Unencumbered Assets in an amount that is not less than 120% of the aggregate principal amount of our outstanding Unsecured Indebtedness and our compliance with the covenant described under the caption "Description of the Notes—Certain Covenants—Limitation on Incurrence of Additional Indebtedness." As of June 30, 2020, we had a ratio of unencumbered assets to unsecured debt of 1.5x, and, as of the same date, on the pro forma basis described above in this paragraph, we would have had a ratio of unencumbered assets to unsecured debt of 1.7x.

Our ability to repurchase Notes upon a Change of Control Triggering Event may be limited.

Upon the occurrence of a Change of Control Triggering Event, we will be required (unless we have exercised our right to redeem all of the Notes by sending a notice of redemption) to offer to repurchase all of the Notes at a price equal to 101% of the principal amount thereof plus accrued

and unpaid interest to, but excluding, the applicable Change of Control Payment Date. See "Description of the Notes—Change of Control." We may be unable to repurchase the Notes upon a Change of Control Triggering Event because we may not have sufficient funds available or we may be prohibited from doing so by the terms of our other indebtedness. In that regard, the Existing Senior Notes include a covenant substantially similar to the covenant applicable to the Notes as described under the caption "Description of the Notes—Change of Control." In addition, a transaction constituting a Change of Control Triggering Event, Change of Control or similar event and certain other events or transactions relating to, for example, the composition of our board of directors, our adoption of a plan for liquidation or dissolution, a change of control in our manager or our manager ceasing to be our manager, constitute or may constitute events of default or require or may require us to repay or offer to repurchase or repay outstanding indebtedness under other existing or future credit agreements, repurchase agreements, indentures or other instruments or agreements relating to Indebtedness to which we or any of our subsidiaries is or becomes a party. Accordingly, we cannot assure you that we will have sufficient financial resources available to repurchase or repay Notes or other indebtedness should we be required to do so upon the occurrence of a Change of Control Triggering Event, Change of Control or other event or transaction. Any failure to repurchase or repay any existing or future indebtedness, should it become due and payable as the result of a Change of Control Triggering Event, Change of Control or other event, would likely have a material adverse effect on our business, results of operations and financial condition and could result in the acceleration of other indebtedness of us and our subsidiaries pursuant to cross-default and cross-acceleration provisions. In addition, certain existing or future indebtedness of ours and our subsidiaries requires or may require us or our subsidiaries to repay or offer to repurchase such indebtedness upon the occurrence of certain changes of control or similar events which may not constitute a Change of Control or Change of Control Triggering Event with respect to the Notes.

Moreover, we will be required to offer to repurchase Notes only if both a Change of Control and certain declines in the credit ratings on the Notes occur. By contrast, any requirement that we repurchase or repay or offer to repurchase or repay, as applicable, indebtedness outstanding under the Existing Repurchase Agreements, the Existing Convertible Senior Notes or the Existing Credit Agreements upon the occurrence of a Change of Control or similar event or certain other events relating to, for example, certain changes in the composition of our board of directors, our adoption of a plan of liquidation or dissolution, a change of control in our manager or our manager ceasing to be our manager, will arise, in each case, without any requirement that there also be a decline in our credit rating, and other existing and future instruments and agreements relating to indebtedness of us and our subsidiaries may have similar provisions. As a result, we may be required to repay or repurchase or offer to repay or repurchase indebtedness outstanding under the Existing Repurchase Agreements, the Existing Convertible Senior Notes, the Existing Credit Agreements and other existing and future instruments and agreements relating to indebtedness before we are required, or without our being required, to repurchase or offer to repurchase the Notes.

The Change of Control Triggering Event provisions of the Notes may not provide protection in the event of certain transactions or in certain other circumstances.

The provisions of the Notes which may require us to make an offer to repurchase the Notes upon the occurrence of a Change of Control Triggering Event as described under "Description of the Notes—Change of Control" may not provide Holders of Notes protection in the event of highly leveraged transactions, reorganizations, restructurings, takeovers, acquisitions, mergers, recapitalizations or similar transactions involving us that might adversely affect holders of Notes. In particular, any such transaction may not give rise to a Change of Control Triggering Event, in which case we would not be required to make an offer to repurchase the Notes. Except as described under "Description of the Notes—Change of Control," neither the Indenture nor the Notes will

contain provisions that permit the holders of the Notes to require that we repurchase or redeem the Notes in the event of highly leveraged transactions, reorganizations, restructurings, takeovers, acquisitions, mergers, recapitalizations or similar transactions involving us.

In addition, the definition of "Change of Control" includes a disposition of "all or substantially all" of the assets (subject to certain exceptions) of us and our subsidiaries taken as a whole to any person. Although there is a limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty as to whether a particular transaction would involve a disposition of "all or substantially all" of such assets of us and our subsidiaries. As a result, it may be unclear as to whether a Change of Control or Change of Control Triggering Event has occurred and whether we are required to make an offer to repurchase the Notes as described above, in which case, the ability of a holder of the Notes to obtain the benefit of the offer for repurchase of all or a portion of the Notes held by such holder may be adversely impacted.

More generally, courts interpreting change of control provisions under New York law (which is the governing law of the Notes and the Indenture) have not provided a clear and consistent meaning of such change of control provisions, and no assurance can be given as to how or if a court would enforce the Change of Control Triggering Event provisions applicable to the Notes or how those provisions would be impacted were we to become a debtor in a bankruptcy case.

If the Notes are rated investment grade by each of two specified rating agencies, certain covenants contained in the Indenture and any Guarantees of the Notes will be automatically and permanently terminated and released, and you will permanently lose the protection of these covenants and any such Guarantees.

The Indenture will contain a covenant that, subject to exceptions, will limit the incurrence of additional Indebtedness by us and our subsidiaries. If at any time the Notes receive Investment Grade Ratings from Moody's Investors Service, Inc. and S&P Global Ratings and no Default or Event of Default has occurred and is continuing, (i) the foregoing covenant limiting the incurrence of Indebtedness, as well as a portion of the covenant limiting our ability to merge, consolidate or transfer all or substantially all of our assets, (ii) the covenant described under "Description of the Notes—Possible Future Guarantees" that may require, under certain circumstances, one or more of our Domestic Subsidiaries (subject to exceptions) to guarantee the Notes (other than the portions of such covenant limiting the obligations of each Guarantor, if any, under its Guarantee of the Notes to prevent such obligations from constituting a fraudulent conveyance or fraudulent transfer under applicable law and the portions of such covenant relating to the release of any Guarantor from its Guarantee of the Notes), and (iii) the Guarantees, if any, of the Notes and all of the obligations of the Guarantors, if any, under the Indenture, will be automatically and permanently terminated and released and will be of no further force or effect. After such termination, we may incur other indebtedness and take other actions that would have been prohibited if these covenants had been in effect. Accordingly, if these covenants are terminated, holders of the Notes will have less covenant protection than at the time the Notes were issued and will also lose the benefit of any Guarantees of the Notes. There can be no assurance that the Notes will ever receive any Investment Grade Ratings.

The credit ratings assigned to the Notes may not reflect all risks of an investment in the Notes.

The credit ratings assigned to the Notes reflect the rating agencies' assessments of our ability to make payments on the Notes when due. Consequently, real or anticipated changes in these credit ratings will generally affect the market values of the Notes. These credit ratings, however, may not reflect the potential impact of risks related to the structure, market or other factors related to the values of the Notes.

Changes in our credit rating could adversely affect the market prices or liquidity of the Notes.

Credit rating agencies continually revise their ratings for the companies that they follow, including us. The credit rating agencies also evaluate our industry as a whole and may change their credit ratings for us based on their overall view of the industry in which we operate. Any credit rating agencies may lower their initial ratings on the Notes or place the Notes on watch list for a possible downgrade. A negative change in our ratings could have an adverse effect on the market prices or liquidity of the Notes.

Federal and state laws may permit courts, under specific circumstances, to void the Notes and/or any Guarantees as a fraudulent transfer or conveyance, subordinate claims in respect of the Notes and/or any Guarantees and require you to return payments received. If that occurs, you may not receive any payments on the Notes or any Guarantees.

Federal and state creditor-protection related laws, including fraudulent transfer and fraudulent conveyance statutes, may apply to the Notes and any Guarantees. Under federal bankruptcy law and comparable provisions of state fraudulent transfer or fraudulent conveyance laws, which may vary from state to state, the Notes or any Guarantees thereof could be voided as fraudulent transfers or conveyances if we or any Guarantors, as applicable, (i) issued the Notes or incurred any Guarantees with the actual intent of hindering, delaying or defrauding current or future creditors or (ii) received less than reasonably equivalent value or fair consideration in return for either issuing the Notes or incurring any Guarantees and, in the case of (ii) only, one of the following is also true at the time thereof:

- we or any such Guarantors, as applicable, were insolvent or rendered insolvent by reason of the issuance of the Notes or the incurrence of any such Guarantees;
- the issuance of the Notes or the incurrence of any such Guarantees left us or any such Guarantors, as applicable, with an unreasonably small amount of capital or assets to carry on business; or
- we or any such Guarantors intended to, or believed that we or such Guarantor would, incur debts beyond our or any Guarantor's ability to pay as they mature.

As a general matter, value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or a valid antecedent debt is secured or satisfied. A court could find that we or any Guarantor did not receive reasonably equivalent value or fair consideration for the Notes or any Guarantees, as applicable, to the extent that we or any Guarantor did not obtain a reasonably equivalent benefit directly or indirectly from the issuance of the Notes or the applicable Guarantees.

The bankruptcy code defines "insolvent" as to an entity other than a partnership or a municipality as the sum of its debts, including contingent and unliquidated liabilities, being greater than the fair value of all of its assets. We cannot be certain as to the standards a court would use to determine whether or not we or any Guarantors were insolvent at the relevant time.

If a court were to find that the issuance of the Notes or the incurrence of a Guarantee of the Notes was a fraudulent transfer or conveyance, the court could void the payment obligations under the Notes or that Guarantee (the effect being that holders of the Notes would cease to have a claim under the Notes or such Guarantee) or could require the holders of the Notes to repay any amounts received with respect to the Notes or that Guarantee. In the event of a finding that a fraudulent transfer or conveyance occurred, you may not receive any repayment on the Notes. Further, the voiding of the Notes or any Guarantees could result in an event of default with respect to the Notes or our and our subsidiaries' other debt that could result in acceleration of the Notes or that debt.

Although the Indenture will contain a provision intended to limit any Guarantor's liability under its Guarantee of the Notes to the maximum amount as will not result in the obligations of such

Guarantor under its Guarantee of the Notes constituting a fraudulent conveyance or fraudulent transfer under applicable federal, foreign or state law, this provision may not be effective to protect any Guarantees of the Notes from being voided under fraudulent conveyance, fraudulent transfer or similar laws, or prevent that Guarantor's obligation from being reduced to an amount that effectively makes its Guarantee worthless. For example, in 2009, the U.S. Bankruptcy Court for the Southern District of Florida in *Official Committee of Unsecured Creditors of TOUSA, Inc. v. Citicorp N. Am., Inc.* voided certain secured guarantees issued by certain subsidiary guarantors notwithstanding the existence of a similar provision which the court found to be ineffective in that case; this decision was affirmed by the Eleventh Circuit Court of Appeals on May 15, 2012. If any Guarantees of the Notes by any Guarantors were held to be unenforceable, the Notes would be effectively subordinated to all indebtedness, guarantees and other liabilities, including trade payables, and preferred equity of such Guarantor.

Finally, the bankruptcy court may subordinate the claims in respect of the Notes or the Guarantees of the Notes to other claims against us or any Guarantors under the principle of equitable subordination if the court determines that (i) the holder of Notes engaged in some type of inequitable conduct, (ii) the inequitable conduct resulted in injury to our other creditors or conferred an unfair advantage upon the holders of Notes and (iii) equitable subordination is not inconsistent with the provisions of the bankruptcy code.

If any of our subsidiaries guarantees the Notes, such Guarantor's liability under its Guarantee of the Notes may be reduced to zero, voided or released under certain circumstances and you may not receive any payments from some or all of the Guarantors.

When the Notes are first issued they will not be guaranteed by any of our subsidiaries and none of our subsidiaries will be required to guarantee the Notes in the future, except under the circumstances described in "Description of the Notes—Possible Future Guarantees," subject to release of any such subsidiary from its obligations under such Guarantee as described in "Description of the Notes—Possible Future Guarantees" and to the automatic and permanent release and termination of all such Guarantees as described in "Description of the Notes—Certain Covenants—Covenant Termination." If the Notes are ever guaranteed, the obligations of each Guarantor under its Guarantee of the Notes will be limited to the maximum amount as will not result in the obligations of such Guarantor under such Guarantee constituting a fraudulent conveyance or fraudulent transfer under applicable federal, foreign or state laws. By virtue of this limitation, a Guarantor's obligation under its Guarantee of the Notes could be significantly less than amounts due and payable with respect to the Notes, or a Guarantor may have no obligation under its Guarantee of the Notes. Moreover, this limitation may not be effective to protect any Guarantees from being voided under fraudulent conveyance, fraudulent transfer or similar laws or to prevent that Guarantor's obligation from being reduced to an amount that effectively makes its Guarantee worthless. Furthermore, the Notes will lose the benefit of a particular Guarantee thereof if it is released under the circumstances described in "Description of the Notes—Possible Future Guarantees" or permanently released and terminated under the circumstances described in "Description of the Notes—Certain Covenants—Covenant Termination." You will not have a claim as a creditor against any subsidiary that does not guarantee the Notes or whose Guarantee of the Notes has been released or terminated, and the indebtedness, guarantees and other liabilities, including trade payables, whether secured or unsecured, and preferred equity of those subsidiaries will effectively be senior to claims of holders of the Notes.

There is no public market for the Notes.

The Notes have not been registered under the Securities Act. Accordingly, the Notes may only be offered or sold in transactions that are not subject to, or that are otherwise exempt from, the registration requirements of the Securities Act and applicable state securities laws or pursuant to an effective registration statement. Prior to this offering, there was no trading market for the

Notes and we cannot assure you that an active trading market will develop for the Notes or, if one does develop, that it will be maintained. If the Notes are traded after their initial issuance, they may trade at a discount from their initial offering price, depending upon prevailing interest rates, the market for similar securities, our performance and other factors. Historically, there has been substantial volatility in the prices of corporate debt securities, and the price of the Notes is likely to be affected by factors which affect the price of corporate debt securities generally. In addition, the trading prices of fixed rate debt securities like the Notes generally tend to decline as interest rates rise and governmental action, economic conditions or other factors that cause an increase in interest rates generally may have an adverse effect on the trading price of the Notes. We do not intend to apply for listing of the Notes on any securities exchange or for inclusion of the Notes on any automated quotation system. Although certain of the Initial Purchasers have informed us that they intend to make a market in the Notes, they are not obligated to do so, and they may discontinue market making activities at any time without notice. Accordingly, we cannot assure you that a liquid market for the Notes will develop or be maintained.

There are restrictions on transfers of the Notes and holders of the Notes will not be entitled to registration rights.

The offering of the Notes by us has not been registered under the Securities Act or any state or other securities laws and the holders of the Notes will not be entitled to require us to offer to exchange the Notes for substantially identical notes registered under the Securities Act or to register the Notes for resale under the Securities Act. The Notes are being offered and sold only to persons reasonably believed to be QIBs and non-U.S. persons in offshore transactions in accordance with Regulation S under the Securities Act. As a result, the Notes may be transferred or resold only in a transaction registered under or exempt from the registration requirements of the Securities Act and applicable state securities laws. In the absence of such registration or exemption, your ability to transfer the Notes will be significantly restricted.

Redemption may adversely affect your return on the Notes.

We have the right to redeem some or all of the Notes, at any time in whole or from time to time in part prior to their maturity, as described under "Description of the Notes—Optional Redemption." We may redeem Notes at times when market interest rates may be lower than market interest rates as of the closing of this offering (the "Issue Date"). Accordingly, if we redeem Notes, you may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that on the Notes.

We are not contractually committed to allocate the net proceeds from this offering to Eligible Green and/or Social Projects, and our failure to do so could adversely impact the value of the Notes.

The market price of the Notes may be impacted by any failure by us to allocate the net proceeds from this offering to Eligible Green and/or Social Projects or to meet or continue to meet the investment requirements of certain environmentally or socially focused investors with respect to the Notes. Although we intend to allocate all of the net proceeds from this offering to Eligible Green and/or Social Projects as described herein under "Use of Proceeds," there can be no assurance that the relevant project(s) or use(s) the subject of, or related to, any Eligible Green and/or Social Projects will be capable of being implemented in or substantially in such manner and/or accordance with any timing schedule and that accordingly such proceeds will be totally or partially disbursed for such Eligible Green and/or Social Projects. Nor can there be any assurance that such Eligible Green and/or Social Projects will be completed within any specified period or at all or with the results or outcome as originally expected or anticipated by us. In addition, none of the Initial Purchasers for this offering are responsible for assessing or verifying whether or not the Eligible Green and/or Social Projects to which we allocate the net proceeds of the Notes

meet the criteria described in "Use of Proceeds," or for the monitoring of the use of proceeds. Any such event or failure by us will not constitute an Event of Default under the Notes.

There can be no assurance that the use of proceeds of the Notes to finance Eligible Green and/or Social Projects will be suitable for the investment criteria of an investor.

It is our intention to apply an amount equal to the net proceeds from this offering specifically for Eligible Green and/or Social Projects. Prospective investors should review the information set out in this offering memorandum regarding such use of proceeds and must determine for themselves the relevance of such information for the purpose of any investment in the Notes, together with any other investigation such investor deems necessary. In particular, no assurance is given by us or any Initial Purchaser that the use of such net proceeds for any Eligible Green and/or Social Project will satisfy, whether in whole or in part, any present or future investor expectations or requirements as regards any investment criteria or guidelines with which such investor or its investments are required to comply, whether by any present or future applicable law or regulations or by its own by-laws or other governing rules or investment portfolio mandates, in particular with regard to any direct or indirect environmental, sustainability or social impact of any projects or uses, the subject of or related to, any Eligible Green and/or Social Projects.

Furthermore, it should be noted that there is currently no clearly defined definition (legal, regulatory or otherwise) of, nor market consensus as to what constitutes, a "green", "social", "sustainable" or an equivalently labelled project or as to what precise attributes are required for a particular project to be defined as "green", "social", "sustainable" or such other equivalent label nor can any assurance be given that such a clear definition or consensus will develop over time. Accordingly, no assurance is or can be given to investors that any projects or uses the subject of, or related to, any Eligible Green and/or Social Projects will meet any or all investor expectations regarding such "green", "social", "sustainable" or other equivalently-labelled performance objectives or that any adverse environmental, social and/or other impacts will not occur during the implementation of any projects or uses the subject of, or related to, any Eligible Green and/or Social Projects.

Recent changes as well as future changes in U.S. federal income tax law could affect your investment in the Notes.

The rules dealing with federal income taxation are subject to revision by persons involved in the legislative process and by the Internal Revenue Service (the "IRS") and the U.S. Department of the Treasury. New legislation, U.S. Treasury regulations, administrative interpretations or court decisions could significantly and negatively affect our ability to qualify as a REIT or the U.S. federal income tax consequences of such qualification. In particular, technical corrections legislation and implementing regulations may be enacted or promulgated in response to the Tax Cuts and Jobs Act of 2017. In addition, legislation, regulations and other guidance has been enacted to respond to the COVID-19 pandemic, including the Coronavirus Aid, Relief, and Economic Security Act, and further legislative enactments and other IRS or Treasury action is possible. Furthermore, no prediction can be made as to the likelihood of passage of new tax legislation or other provisions, or the direct or indirect effect on us, our stockholders or investors in our Notes. Prospective investors are urged to consult their tax advisors regarding the effect of changes to the U.S. federal tax laws prior to purchasing the Notes.

Certain actions in respect of defaults taken under the Indenture by beneficial owners with short positions in excess of their interests in the Notes will be disregarded.

By acceptance of the Notes, each holder of Notes agrees, in connection with any notice of default, notice of acceleration or instruction to the Trustee to provide a notice of default, notice of acceleration or take any other action (a "Noteholder Direction"), to (i) deliver a written

representation to us and the Trustee that such holder and any of its affiliates acting in concert with it in connection with its investment in the Notes (other than screened affiliates) are not (or, in the case such holder is DTC or its nominee, that such holder is being instructed solely by beneficial owners that (together with such affiliates) are not) Net Short (as defined under "Description of the Notes—Certain Definitions") and (ii) provide us with such other information as we may reasonably request from time to time in order to verify the accuracy of such holder's representation within five business days of request therefor. These restrictions may impact a holder's ability to participate in Noteholder Directions if it is unable to make such a representation.

Use of proceeds

We estimate that the net proceeds from this offering will be approximately $ million, after deducting the Initial Purchasers' discounts and commissions and other estimated offering expenses payable by us. We intend to allocate an amount equal to the net proceeds from this offering to finance or refinance, in whole or in part, recently completed or future eligible projects that meet the eligibility criteria described below (such projects, "Eligible Green and/or Social Projects") in alignment with the four core pillars of the Green Bond Principles, 2018, Social Bond Principles, 2020 and Sustainability Bond Guidelines, 2018. Net proceeds allocated to previously incurred costs associated with Eligible Green and/or Social Projects will be available for the repayment of indebtedness previously incurred. Pending full allocation of an amount equal to the net proceeds to Eligible Green and/or Social Projects, we intend to use the net proceeds to fund the redemption of the remaining $250 million outstanding principal amount of our February 2021 Senior Notes (assuming the completion of the partial redemption of $250 million outstanding principal amount of our February 2021 Senior Notes on November 2, 2020, as described below), and for general corporate purposes, which may include the repayment of outstanding indebtedness (such initial use of proceeds, the "Initial Use of Proceeds"). This offering memorandum does not constitute a notice of redemption.

Eligible Green and/or Social Projects

Eligible Green and/or Social Projects include investments in, financings of and/or acquisitions of one or more of the following:

- ***Renewable Energy***, including development, construction, acquisition, maintenance and operation of renewable energy, such as solar, wind, geothermal, run-of-river hydropower, and small-scale hydropower (less than or equal to 20 MW) and waste to energy projects. Renewable energy investments may include those made up to three years before the issuance date of the Notes.
- ***Green Buildings***, including the development, construction, installation, operation, financing, acquisition, maintenance, upgrades and associated costs of new or existing commercial or residential buildings, including buildings that meet regional, national or internationally-recognized standards or certifications (e.g., LEED Silver, Gold or Platinum). Green building investments may include those made up to three years before the issuance date of the Notes.
- ***Affordable Housing***, including multi-family properties, where approximately 98% of the project's units are reserved for or restricted to households earning 60% or less of the household medium income for the region in which each property is located. Affordable housing investments may include those made up to five years before the issuance date of the Notes.

Exclusions: hydropower projects that are not run-of-river, hydropower projects greater than 20 MW, activities related to the exploration, production or transportation of fossil fuels (e.g., coal, oil and gas) and consumption of fossil fuels for the purpose of power generation.

We expect to allocate an amount equal to the net proceeds from this offering to Eligible Green and/or Social Projects as soon as reasonably practicable after the Issue Date and before the maturity date of the Notes.

Process for project evaluation and selection

Our investment committee will evaluate projects for eligibility based on the criteria described above and recommend the allocation of the net proceeds from this offering among Eligible Green and/or Social Projects for review and approval by our finance team.

Management of proceeds

Our finance team will track the amount of net proceeds from this offering allocated to Eligible Green and/or Social Projects. Pending full allocation of an amount equal to the net proceeds to Eligible Green and/or Social Projects, we intend to use the net proceeds for the Initial Use of Proceeds, as described above.

Reporting

Annually, until an amount equal to the net proceeds from this offering have been fully allocated to Eligible Green and/or Social Projects, we intend to publish on our website a Green Bond Report that will include (i) the amount of net proceeds allocated, (ii) a selection of brief descriptions of relevant Eligible Green and/or Social Projects and, where feasible, their expected impact metrics, for example, CO2 equivalent emissions avoided and/or GWh of annual generation and (iii) the remaining amount of net proceeds yet to be allocated to Eligible Green and/or Social Projects at the end of the reporting period.

Information contained in, or accessible through, our website and in our Green Bond Report is not incorporated in, and is not part of, this offering memorandum or any other report or filing we make with the SEC. Neither the Notes nor the indenture requires us to use the net proceeds from the sale of the Notes as described above, and any failure by us to comply with the foregoing will not constitute a breach of or default under the Notes or the indenture. The above description of the use of the proceeds from the sale of the Notes is not intended to modify or add any covenant or other contractual obligation undertaken by us under the Notes or the indenture governing the Notes.

External review

The annual Green Bond Report will be accompanied by (i) an assertion by our manager that an amount equal to the specified portion of the net proceeds from this offering was allocated to Eligible Green and/or Social Projects and (ii) a report from an independent registered public accounting firm in respect of its examination of management's assertions conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

Green Bond Principles, 2018, Social Bond Principles, 2020, and Sustainability Bond Guidelines, 2018

These principles are voluntary guidelines that were developed by an industry working group administered by the International Capital Markets Association and are intended to promote integrity in the sustainable bond market through recommendations relating to transparency, disclosure and reporting.

Our February 2021 Senior Notes

Our February 2021 Senior Notes mature on February 1, 2021, and, as of June 30, 2020, approximately $500 million aggregate principal amount of our February 2021 Senior Notes were outstanding. On October 2, 2020, we issued a conditional notice of partial redemption to the holders of our February 2021 Senior Notes indicating that we have elected to redeem 50% (i.e., $250 million) of our outstanding February 2021 Senior Notes on November 2, 2020. The partial redemption of the February 2021 Senior Notes is conditioned on the closing, on or prior to the redemption date, of the Term Loan B, which closed on October 16, 2020.

To the extent that any of the Initial Purchasers or their affiliates own any of our February 2021 Senior Notes, upon the Initial Use of Proceeds, such Initial Purchasers or affiliates will receive a portion of those net proceeds. See "Plan of Distribution—Other Relationships."

Capitalization

The following table sets forth our consolidated capitalization (1) as of June 30, 2020 on an historical basis and (2) on an as adjusted basis as of June 30, 2020, after giving effect to (i) the issuance and sale of the Notes in this offering, (ii) the Initial Use of Proceeds, which consists of funding the redemption of the remaining $250 million outstanding principal amount of our February 2021 Senior Notes (assuming the completion of the partial redemption of $250 million outstanding principal amount of our February 2021 Senior Notes on November 2, 2020), and general corporate purposes, which may include repayment of outstanding indebtedness, (iii) the closing of the Term Loan B and (iv) the use of Term Loan B proceeds to fund the partial redemption on November 2, 2020 of $250 million principal amount of our February 2021 Senior Notes, as described under "Summary—Recent Developments—Conditional Notice of Partial Redemption of 3.625% Senior Notes Due 2021".

	As of June 30, 2020	
	Historical	As adjusted(1)(2)
	(Unaudited, in thousands)	
Cash:		
Cash and cash equivalents	$ 347,734	$ 347,734
Restricted cash	176,397	176,397
Total cash	$ 524,131	$ 524,131
Debt:(3)		
Secured financing agreements, net	$ 8,836,320	$ 9,036,320
Unsecured senior notes, net(4)	1,932,560	1,432,560
Notes offered hereby	—	300,000
Total debt	$10,768,880	$10,768,880(5)
Stockholders' equity:		
Common stock, par value $0.01 per share, 500,000,000 shares authorized; 291,573,083 issued and 284,467,522 outstanding, historical and as adjusted	2,916	2,916
Preferred stock, par value $0.01 per share; 100,000,000 shares authorized and no shares issued and outstanding, historical and as adjusted	—	—
Additional paid-in capital	5,193,572	5,193,572
Treasury stock 7,105,561 shares historical and as adjusted)	(133,024)	(133,024)
Accumulated other comprehensive income	42,866	42,866
Accumulated deficit	(614,093)	(614,093)
Total stockholders' equity	4,492,237	4,492,237
Non-controlling interests in consolidated subsidiaries	372,559	372,559
Total equity	4,864,796	4,864,796
Total capitalization	$15,633,676	$15,633,676

(1) Does not reflect the incurrence or repayment of debt subsequent to June 30, 2020 other than as contemplated in the transactions described in the paragraph above.

(2) We intend to allocate an amount equal to the net proceeds from this offering to finance or refinance, in whole or in part, recently completed or future Eligible Green and/or Social Projects. Pending full allocation of an amount equal to the net proceeds to Eligible Green and/or Social Projects, we intend to use the net proceeds for the Initial Use of Proceeds, which consists of funding the redemption of the remaining $250 million outstanding principal amount of our February 2021 Senior Notes (assuming the completion of the partial redemption of $250 million outstanding principal amount of our February 2021 Senior Notes on November 2, 2020), and general corporate purposes, which may include repayment of outstanding indebtedness. See "Use of Proceeds."

(3) Does not include securitization VIE liabilities.

(4) Does not include the Notes offered hereby.

(5) Reflects adjustments for the principal amounts issued and redeemed without reflecting the debt discount or fees and expenses related thereto.

Description of the notes

The % Senior Notes due 2023 will be issued under an Indenture dated as of the Issue Date between the Company and The Bank of New York Mellon, as trustee (the "Trustee"). The Company will issue the Notes in a private transaction that is not registered under the Securities Act and the Notes will initially be subject to certain transfer restrictions. See "Transfer Restrictions."

The following is a description of certain provisions of the Indenture and the Notes. It does not include all of the provisions of the Indenture and the Notes. We urge you to read the Indenture because it defines your rights. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the "TIA"). You may obtain a copy of the form of the Indenture (which includes the form of the Notes) as described under "Where You Can Find More Information."

For purposes of this section, references to the "Company, "us," "we," "our" and similar references include only Starwood Property Trust, Inc. and not its subsidiaries or any other entities that are consolidated with the Company for financial reporting purposes. You can find definitions of certain capitalized terms used in this "Description of the Notes" under "—Certain Definitions."

General

The Notes we issue on the Issue Date will be limited to an aggregate principal amount of $300 million. We may issue an unlimited principal amount of Additional Notes under the Indenture having identical terms as the Notes initially issued under the Indenture on the Issue Date (other than issue date, and, if applicable, issue price, the first interest payment date and the date from which interest will accrue, and except that any such Additional Notes may, but need not, be subject to or include transfer restrictions), provided that if any Additional Notes are not fungible with the Notes initially issued on the Issue Date for U.S. federal income tax purposes, such Additional Notes will have separate CUSIP and ISIN numbers from the Notes initially issued on the Issue Date. We will only be permitted to issue Additional Notes in compliance with the terms of the Indenture, including the covenant described below under "—Certain Covenants—Limitation on Incurrence of Additional Indebtedness." The Notes and any Additional Notes subsequently issued under the Indenture will be treated as a single class for all purposes under the Indenture for purposes of, among other things, payments of principal and interest, Events of Default (as defined below under "Events of Default"), Legal Defeasance and Covenant Defeasance (as those terms are defined below under "—Legal Defeasance and Covenant Defeasance"), satisfaction and discharge, waivers, amendments, redemptions and offers to purchase. Unless otherwise expressly stated or the context otherwise requires, in this "Description of the Notes" section references to the Notes include any Additional Notes.

The Company will issue the Notes in fully registered form without coupons in denominations of $2,000 and integral multiples of $1,000 in excess thereof. The Notes will initially be issued in book-entry form evidenced by one or more global Notes ("Global Notes") registered in the name of the Depositary or its nominee and Notes in definitive certificated form ("certificated Notes") will only be issued under the limited circumstances described under "Book-Entry, Delivery and Form." The Trustee will initially act as paying agent and registrar for the Notes. The Notes may be presented for registration of transfer and exchange at the office of the registrar. The Company may change any paying agent and registrar and may appoint additional paying agents and registrars without notice to Holders of the Notes. The Company will pay principal (and premium, if any) on, and may pay interest on, any certificated Notes at the office or agency maintained by the Company for such purpose in the United States of America, which initially shall be an office of the Trustee, upon surrender of such certificated Notes by the Holders thereof at such office or agency. Interest on any certificated Notes may also be paid, at the Company's option, by check

mailed to the registered addresses of the Holders entitled thereto or by wire transfer to accounts in the United States of America specified by such Holders. The Company will pay the principal, premium, if any, and interest on Global Notes registered in the name of the Depositary or its nominee in immediately available funds to the Depositary or its nominee, as the case may be, as Holder of such Global Notes.

Principal, maturity and interest

The Notes will mature on , 2023. The Notes will not be entitled to the benefit of any mandatory sinking fund.

Interest on the Notes will be payable semiannually in arrears in cash at a rate of % per annum. Interest will be paid on the Notes on each and , commencing on , 2021, to the persons who are Holders of record of the Notes on the preceding and , respectively, whether or not a Business Day. Interest on the Notes will accrue from the Issue Date and will be calculated on the basis of a 360-day year comprised of twelve 30-day months.

If any interest payment date, Redemption Date, Change of Control Payment Date, maturity date or any other date on which payment on any Notes is due is not a Business Day, the required payment will be postponed and made on the next succeeding Business Day as if made on the date such payment was due, and no interest will accrue on such payment for the period from and after such interest payment date, Redemption Date, Change of Control Payment Date, maturity date or other date, as the case may be, to the date of such payment on the next succeeding Business Day. Interest on the Notes offered hereby will accrue from the most recent date to which interest has been paid or duly provided for on the Notes or, if no interest has been paid or duly provided for on the Notes, from and including the Issue Date.

Transfer and exchange

A Holder may transfer or exchange Notes in accordance with the Indenture. The registrar and the Trustee may require a Holder to furnish appropriate endorsements and transfer documents in connection with a transfer of Notes. Holders will be required to pay all taxes due on transfer. The Company is not required to transfer or exchange any Note for a period of 15 days before the mailing (or, if not mailed, other transmittal) of a notice of redemption of Notes.

Ranking

The Notes will be:

- senior unsecured obligations of the Company;
- *pari passu* in right of payment with all existing and future senior unsecured indebtedness and senior unsecured guarantees of the Company;
- effectively subordinated in right of payment to all existing and future secured indebtedness and secured guarantees of the Company to the extent of the value of the assets securing such indebtedness and guarantees;
- senior in right of payment to any future subordinated indebtedness and subordinated guarantees of the Company; and
- effectively subordinated in right of payment to all existing and future indebtedness, guarantees and other liabilities (including trade payables) and any preferred equity of the Company's Subsidiaries (other than any Subsidiaries that may become Guarantors of the Notes as described below).

On the Issue Date, the Notes will not be guaranteed by any of our Subsidiaries and none of our Subsidiaries will be required to guarantee the Notes in the future, except under the circumstances described under "—Possible Future Guarantees" below. In the event that any of our Subsidiaries becomes a Guarantor of the Notes, its Guarantee of the Notes will be:

- a senior unsecured obligation of such Guarantor;
- *pari passu* in right of payment with all existing and future senior unsecured indebtedness and senior unsecured guarantees of such Guarantor;
- effectively subordinated in right of payment to all existing and future secured indebtedness and secured guarantees of such Guarantor to the extent of the value of the assets securing such indebtedness and guarantees; and
- senior in right of payment to any future subordinated indebtedness and subordinated guarantees of such Guarantor.

As a holding company, substantially all of our business is conducted through our Subsidiaries, which are separate and distinct legal entities and, except in the case of our Subsidiaries, if any, that may guarantee the Notes in the future under the circumstances described below, have no contractual or other obligations to make payments due on the Notes or to provide funds to us for that purpose. Therefore, our ability to make payments due on the Notes and to meet our other cash needs is dependent on the earnings of, and the distribution of funds (whether by dividend, distribution, loan or otherwise) to us by, our Subsidiaries. The availability of funds from our Subsidiaries will depend upon, among other things, their operating results, financial condition and legal or contractual restrictions on their ability to pay dividends and distributions or make loans to us. We cannot assure you that our Subsidiaries will have sufficient funds, or that agreements governing the existing and future indebtedness of our Subsidiaries will not restrict or prevent our Subsidiaries from providing us with sufficient funds, to make payments on the Notes when due and to meet our other cash needs, and the Indenture will not restrict our Subsidiaries from entering into such restrictive agreements. Furthermore, we guarantee many of the obligations of our subsidiaries and such guarantees may require us to provide substantial funds or assets to our subsidiaries or their creditors at a time when we need liquidity to fund our own obligations, such as the Notes. In addition, the Notes will be effectively subordinated in right of payment to all existing and future indebtedness, guarantees and other liabilities (including trade payables) and preferred equity of our Subsidiaries (other than any Subsidiaries that may become Guarantors of the Notes as described below). In that regard, certain of the Company's Subsidiaries are borrowers or guarantors under the Existing Credit Agreements and the Existing Repurchase Agreements and the Notes will therefore be effectively subordinated in in right of payment to the indebtedness of such Subsidiaries under the Existing Credit Agreements and the Existing Repurchase Agreements. If any of our Subsidiaries guarantees the Notes, the terms of the Existing Convertible Senior Notes require that such Subsidiary also guarantee the Existing Convertible Senior Notes, and we may in the future enter into other debt instruments with similar requirements. In addition, the Existing Senior Notes include a covenant substantially similar to the covenant described below under "—Possible Future Guarantees," which could require any of our Domestic Subsidiaries (other than Excluded Subsidiaries and Securitization Entities) that guarantees the Notes offered hereby to also guarantee the Existing Senior Notes. Furthermore, the Notes and any Guarantees of the Notes by our Subsidiaries will be unsecured and therefore will not have the benefit of any collateral. Accordingly, the Notes and any Guarantees of the Notes will be effectively subordinated in right of payment to all existing and future secured Indebtedness and secured guarantees of us and any Guarantors to the extent of the value of the assets securing such secured Indebtedness and secured guarantees.

For additional information, see "Risk Factors—Risks Related to the Notes and to this Offering—Our ability to repay our debt, including the Notes, depends on the performance of our subsidiaries

and their ability to make distributions to us," "—Risks Related to the Notes and to this Offering—The Notes and any Guarantees will be unsecured and effectively subordinated in right of payment to our existing and future secured indebtedness and secured guarantees to the extent of the value of the assets securing such indebtedness and guarantees" and "—Risks Related to the Notes and to this Offering—The Notes will be effectively subordinated in right of payment to the indebtedness, guarantees and other liabilities (including trade payables) and preferred equity of our subsidiaries that do not guarantee the Notes and any of our subsidiaries that guarantees the Notes will also be required to guarantee certain debt in addition to the Notes."

Possible future guarantees

On the Issue Date, none of our Subsidiaries will be a Guarantor of the Notes. The Indenture will provide that if, on any date (a "Guarantee Date"), the aggregate Guaranteed Principal Amount of any Domestic Subsidiary of the Company (other than a Domestic Subsidiary of the Company that is an Excluded Subsidiary or a Securitization Entity) exceeds $2.5 million, the Company will cause such Domestic Subsidiary to execute and deliver to the Trustee, within 30 days after such Guarantee Date (except as set forth in the proviso below), a supplemental indenture pursuant to which such Domestic Subsidiary will unconditionally guarantee the payment of the Notes, jointly and severally with all other Guarantors (if any) of the Notes; provided that, if a Domestic Subsidiary that would have been required to guarantee the Notes but for the fact that it was an Excluded Subsidiary or a Securitization Entity shall be required to guarantee the Notes because it shall have ceased to be an Excluded Subsidiary or a Securitization Entity, or if a Subsidiary that was a Foreign Subsidiary shall be required to guarantee the Notes because it shall have become a Domestic Subsidiary that is not an Excluded Subsidiary or a Securitization Entity, as the case may be, the supplemental indenture referred to above shall be delivered to the Trustee within 30 days after the date such Domestic Subsidiary shall have ceased to be an Excluded Subsidiary or a Securitization Entity or such Foreign Subsidiary shall have become a Domestic Subsidiary that is not an Excluded Subsidiary or Securitization Entity, as the case may be. Anything in the Indenture to the contrary notwithstanding, no Excluded Subsidiary, Securitization Entity or Foreign Subsidiary shall be required to guarantee the Notes or become a Guarantor.

The Indenture will provide that the covenant described in the immediately preceding paragraph will automatically and permanently terminate and the Company will be automatically and permanently released from all of its obligations under such covenant under the circumstances described below under "—Certain Covenants—Covenant Termination" and, if that occurs, all Guarantees (if any) of the Notes and all obligations of each Guarantor (if any) under its Guarantee of the Notes and the Indenture will be automatically and permanently terminated and released. For additional information, see "—Certain Covenants—Covenant Termination" below.

The Indenture will provide that the obligations of each Guarantor under its Guarantee of the Notes will be limited to the maximum amount as will not result in the obligations of such Guarantor under its Guarantee of the Notes constituting a fraudulent conveyance or fraudulent transfer under applicable federal, foreign or state laws. The Indenture will also provide that the limitation described in the immediately preceding sentence shall survive any covenant termination described below under "—Certain Covenants—Covenant Termination" and remain in full force and effect. By virtue of this limitation, a Guarantor's obligation under its Guarantee of the Notes could be significantly less than amounts due and payable with respect to the Notes, or a Guarantor may have no obligation under its Guarantee of the Notes. Moreover, this limitation may not be effective to protect any Guarantees from being voided under fraudulent conveyance, fraudulent transfer or similar laws or to prevent that Guarantor's obligation from being reduced to an amount that effectively makes its Guarantee worthless. See "Risk Factors—Risks Related to the Notes and to this Offering—Federal and state laws may permit courts, under specific circumstances, to void the Notes and/or any Guarantees as a fraudulent transfer or conveyance, subordinate claims in

respect of the Notes and/or any Guarantees and require you to return payments received. If that occurs, you may not receive any payments on the Notes or any Guarantees." and "Risk Factors—Risks Related to the Notes and to this Offering—If any of our Subsidiaries guarantees the Notes, such Guarantor's liability under its Guarantee may be reduced to zero, voided or released under certain circumstances, and you may not receive any payments from some or all of the Guarantors."

A Guarantor's Guarantee of the Notes will automatically terminate and be released, all other obligations of such Guarantor under the Indenture will automatically terminate and such Guarantor will automatically be released from all of its obligations under its Guarantee of the Notes and the Indenture:

(1) upon the sale or other disposition of Capital Stock of such Guarantor, or any merger or consolidation of such Guarantor with or into any Person, which results in such Guarantor no longer being a Subsidiary of the Company or the sale or disposition of all or substantially all the assets of such Guarantor (other than to the Company or a Domestic Subsidiary of the Company that is not an Excluded Subsidiary or a Securitization Entity) so long as such sale, disposition, merger or consolidation is permitted (or not prohibited) by the Indenture;

(2) upon delivery by the Company to the Trustee of an Officers' Certificate to the effect that such Guarantor is an Excluded Subsidiary, a Securitization Entity or a Foreign Subsidiary (it being understood that the Company may deliver such Officers' Certificate in respect of any Domestic Subsidiary that is a Guarantor if such Domestic Subsidiary subsequently becomes an Excluded Subsidiary, a Securitization Entity or a Foreign Subsidiary);

(3) upon Legal Defeasance, Covenant Defeasance or discharge of the Notes as provided in "—Legal Defeasance and Covenant Defeasance" or "—Satisfaction and Discharge," as applicable;

(4) if such Guarantor is dissolved or liquidated and such dissolution or liquidation is not an Event of Default (excluding an Event of Default under clause (6) of the first paragraph under the caption "—Events of Default");

(5) upon the merger of such Guarantor into, or the consolidation of such Guarantor with, (a) a Subsidiary of the Company if the surviving or resulting entity is an Excluded Subsidiary, Securitization Entity or Foreign Subsidiary or (b) the Company or another Guarantor;

(6) if at any time the outstanding Guaranteed Principal Amount of such Guarantor (provided that, anything herein to the contrary notwithstanding, any Debt Securities that would otherwise be included in calculating such Guaranteed Principal Amount shall be excluded from such calculation if (x) such Guarantor's guarantee of such Debt Securities will be released, terminated, suspended or discharged, (y) such Debt Securities will be repaid, repurchased, defeased, redeemed or otherwise discharged or otherwise will cease to be outstanding or (z) such Debt Securities will cease to meet the requirements for inclusion under clause (a), (b), (c), or (d) of the definition of "Guaranteed Principal Amount," in each case contemporaneously with the termination of such Guarantor's Guarantee of the Notes) shall be less than or equal to $2.5 million, whether as a result of the release, termination, suspension or discharge of such Guarantor's guarantee of any Debt Securities, the repayment, repurchase, defeasance, redemption or other discharge of any Debt Securities, the release, termination, suspension or discharge of the Company's guarantee of any Guaranteed Subsidiary Debt Securities, or otherwise;

(7) under the circumstances described in the last paragraph under "—Certain Covenants—Merger, Consolidation and Sale of Assets" or if such Guarantor shall cease to be a Subsidiary of the Company; or

(8) under the circumstances described under "—Certain Covenants—Covenant Termination" below.

Our Non-Guarantor Subsidiaries will have no obligation, contingent or otherwise, to pay amounts due on the Notes or to make any funds available to the Company to pay those amounts, whether by dividend, distribution, loan or otherwise. See "—Ranking" above and "Risk Factors—Risks Related to the Notes and to this Offering—The Notes will be effectively subordinated in right of payment to the indebtedness, guarantees and other liabilities (including trade payables) and preferred equity of our subsidiaries that do not guarantee the Notes and any of our subsidiaries that guarantees the Notes will also be required to guarantee certain debt in addition to the Notes."

Optional redemption

Prior to , (the "Par Call Date"), the Notes may be redeemed in whole or in part at the Company's option at any time and from time to time at a price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued but unpaid interest, if any, to, but excluding, the applicable Redemption Date (subject to the right of the Holders of record on the relevant record date to receive interest due on any interest payment date falling on or prior to such Redemption Date).

On and after the Par Call Date, the Notes may be redeemed in whole or in part at the Company's option at any time and from time to time at a price equal to 100% of the principal amount thereof plus accrued and unpaid interest, if any, to, but excluding, the applicable Redemption Date (subject to the right of the Holders of record on the relevant record date to receive interest due on any interest payment date falling on or prior to such Redemption Date).

Prior to , , the Company will be entitled at its option on one or more occasions to redeem the Notes in an aggregate principal amount not to exceed 40% of the aggregate principal amount of the Notes (including any Additional Notes) originally issued prior to the applicable Redemption Date at a redemption price (expressed as a percentage of the principal amount of the Notes to be redeemed) of %, plus accrued but unpaid interest, if any, to, but excluding, the applicable Redemption Date (subject to the right of the Holders of record on the relevant record date to receive interest due on any interest payment date falling on or prior to such Redemption Date), with the Net Cash Proceeds from one or more Qualified Equity Offerings; provided, however, that:

(1) at least 60% of the aggregate principal amount of Notes (including any Additional Notes) originally issued prior to the applicable Redemption Date remains outstanding immediately after the occurrence of each such redemption (other than Notes held, directly or indirectly, by the Company or any of its Affiliates); and

(2) each such redemption occurs within 180 days after the date of the closing of the related Qualified Equity Offering.

Notwithstanding the foregoing, in connection with any tender offer or Change of Control Offer for the Notes, if Holders of not less than 90% in aggregate principal amount of the then outstanding Notes validly tender and do not validly withdraw such Notes in such offer and the Company, or any third party making an offer in lieu of the Company, purchases all of the Notes validly tendered and not validly withdrawn by such Holders, the Company or such third party will have the right, upon not less than 15 days' nor more than 60 days' prior notice, given not more than 60 days following such purchase date, to redeem all Notes that remain outstanding following such purchase at a price in cash equal to the price offered to each other Holder of the Notes in such offer (which may be less than par) plus, to the extent not included in the offer payment, accrued and unpaid interest, if any, to, but excluding, the date of redemption (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

Any redemption of the Notes may, in the Company's sole discretion, be subject to one or more conditions precedent, which shall be described in the related notice of redemption to Holders of Notes, which conditions may include, without limitation, completion of one or more Qualified Equity Offerings or other securities offerings or other financings, transactions or events. If such redemption is subject to satisfaction of one or more conditions precedent, such notice to Holders of Notes may (at the option of the Company) include a statement to the effect that the Redemption Date may be delayed, on one or more occasions and in the Company's sole discretion, either (at the Company's option) to a date specified by the Company in such notice or in a subsequent notice to such Holders (subject, if the Company shall so elect, to satisfaction of any or all such conditions or the Company's written waiver of any such conditions that are not satisfied) or until such time as any or all of such conditions have been satisfied or waived by the Company in writing, and that, if any such conditions shall not have been satisfied as and when required (as determined by the Company in its sole discretion and taking into account any election by the Company to delay such Redemption Date), then (unless the Company shall have waived in writing any such conditions that are not satisfied), the Company shall have no obligation to redeem the Notes called for redemption on such Redemption Date (as the same may have been delayed by the Company as aforesaid) and may cancel such proposed redemption and rescind any notice of such redemption. In order to delay any Redemption Date (or to further delay any delayed Redemption Date (as defined below)), the Company shall provide written notice to the Trustee, at least two Business Days before such Redemption Date (or such delayed Redemption Date, as the case may be), to the effect that the Company has elected to delay such Redemption Date (or such delayed Redemption Date, as the case may be) and specifying the new Redemption Date (a "delayed Redemption Date") (which may, at the Company's option, be specified as the date on which any or all conditions to such redemption are satisfied (as determined by the Company in its sole discretion) or waived by the Company), and the Trustee shall provide such notice to each Holder of the Notes that were to be redeemed in the same manner in which the notice of redemption was given. The Company may delay any Redemption Date on one or more occasions.

If all conditions precedent (if any) to any redemption of the Notes shall not have been satisfied as and when required (as determined by the Company in its sole discretion and taking into account any election by the Company to delay such Redemption Date) or waived by the Company in writing and the Company has not elected to delay (or further delay) the applicable Redemption Date (or the applicable delayed Redemption Date, as the case may be), the Company shall provide written notice to the effect that the Company has elected to cancel such redemption to the Trustee prior to close of business two Business Days prior to such Redemption Date (or such delayed Redemption Date, as the case may be). Upon the Trustee's receipt of such notice, the notice of such redemption shall be automatically rescinded and such redemption shall be automatically cancelled and the Company shall have no obligation to redeem the Notes called for redemption. Promptly after receipt of such notice, the Trustee shall provide such notice to each Holder of the Notes that were to have been redeemed in the same manner in which the notice of redemption was given.

"Applicable Premium" means, with respect to any Note on any Redemption Date for such Note, the greater of: (1) 1.0% of the principal amount of such Note and (2) the excess, if any, of (a) the present value as of such Redemption Date of (i) the redemption price of such Note on the Par Call Date (such redemption price being 100% of the principal amount of such Note) plus (ii) all required remaining scheduled interest payments due on such Note to, but excluding, the Par Call Date, excluding accrued but unpaid interest to such Redemption Date, computed using a discount rate equal to the Treasury Rate plus basis points, over (b) the principal amount of such Note. Calculation of the Applicable Premium and the Treasury Rate will be made by the Company or on behalf of the Company by such Person as the Company shall designate; provided, however, that such calculation shall not be a duty or obligation of the Trustee.

"Treasury Rate" means, with respect to a Redemption Date for any Note, the average of the yields to maturity (for each Business Day during the most recent week that has ended at least two Business Days prior to the first day on which the Company mails or otherwise transmits the notice of redemption (or, in the case of redemption in connection with Legal Defeasance, Covenant Defeasance or satisfaction and discharge as described below under "—Legal Defeasance and Covenant Defeasance" or "—Satisfaction and Discharge," as applicable, at least two Business Days prior to the deposit of trust funds with the Trustee in accordance with the applicable provisions of the Indenture)) of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (or, if such Statistical Release is no longer published, any publicly available source of similar market data selected by the Company)) most nearly equal to the period from such Redemption Date to the Par Call Date; provided, however, that if such period is not equal to the constant maturity of the United States Treasury security for which a yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the yields of United States Treasury securities for which such yields are given, except that if such period is less than one year, the yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

In the event that the Company chooses to redeem less than all of the Notes, selection of the Notes for redemption will be made by the Trustee pro rata or by lot; provided that, in the case of Notes represented by one or more Global Notes, interests in such Global Notes will be selected for redemption by the Depositary in accordance with its applicable procedures therefor.

Notes shall be redeemed in a minimum principal amount of $2,000 and integral multiples of $1,000 in excess thereof; provided that the remaining principal amount of any Note redeemed in part shall be $2,000 or an integral multiple of $1,000 in excess thereof. Notice of redemption will be mailed by first-class mail, or, if the Notes are represented by one or more Global Notes and if the Depositary's applicable procedures so provide, transmitted in accordance with the Depositary's applicable procedures therefor, at least 15 but not more than 60 days before the Redemption Date to each Holder of the Notes to be redeemed at its registered address (or at such address as may be provided by the Depositary's applicable procedures). On and after the Redemption Date, interest will cease to accrue on Notes or portions thereof called for redemption as long as the Company has deposited with the paying agent funds in satisfaction of the applicable redemption price.

Mandatory redemption; open market and other purchases

Except as described below under "—Change of Control," we will not be required to make any mandatory redemption, mandatory repurchase or sinking fund payments with respect to the Notes. We may at any time and from time to time acquire Notes by means other than a redemption, whether by tender offer, open market purchases, negotiated transactions or otherwise, in accordance with applicable securities laws.

Change of control

Upon the occurrence of a Change of Control Triggering Event, each Holder of Notes will have the right (unless the Company has exercised its right to redeem all of the Notes as described under "—Optional Redemption" above by sending a notice of redemption) to require that the Company purchase all or a portion of such Holder's Notes pursuant to the offer described below (a "Change of Control Offer") at a purchase price in cash equal to 101% of the principal amount thereof plus accrued and unpaid interest to, but excluding, the applicable Change of Control Payment Date referred to below (subject to the right of Holders of record on the relevant record date to receive interest due on any interest payment date falling on or prior to the Change of Control Payment Date (the "Change of Control Purchase Price").

Within 30 days following the date upon which the Change of Control Triggering Event shall have occurred, the Company must (unless the Company has exercised its right to redeem all of the Notes as described under "—Optional Redemption" above by sending a notice of redemption) send, by first class mail, a notice to each Holder of Notes (or, in the case of Global Notes, send such notice in accordance with the applicable procedures, if any, of the Depositary), with a copy to the Trustee, which notice shall govern the terms of the Change of Control Offer. Such notice shall state:

- that the Change of Control Offer is being made pursuant to the Indenture and that all Notes that are validly tendered and not withdrawn will be accepted for payment;
- the Change of Control Purchase Price and the purchase date, which must be a Business Day no earlier than 15 days nor later than 60 days from the date such notice is mailed (or otherwise transmitted), other than as may be required by law (the "Change of Control Payment Date");
- that any Note not tendered will continue to accrue interest;
- that any Note accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest on and after the Change of Control Payment Date (unless the Company shall default in the payment of the Change of Control Purchase Price of the Notes) and the only remaining right of the Holder will be to receive payment of the Change of Control Purchase Price upon surrender of the applicable Note to the paying agent;
- that Holders electing to have a portion of a Note purchased pursuant to a Change of Control Offer may only elect to have such Note purchased in denominations of $2,000 and integral multiples of $1,000 in excess thereof, provided that the remaining principal amount of any such Note surrendered for repurchase in part shall be $2,000 or an integral multiple of $1,000 in excess thereof;
- that if a Holder elects to have a Note purchased pursuant to a Change of Control Offer it will be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note duly completed, to the Person and at the address specified in the notice (or, in the case of Global Notes, to surrender the Note and provide the information required by such form in accordance with the applicable procedures, if any, of the Depositary) prior to the close of business on the third Business Day prior to the Change of Control Payment Date;
- that a Holder will be entitled to withdraw its election if the Company receives, not later than the close of business on the third Business Day preceding the Change of Control Payment Date, a facsimile transmission or letter setting forth the name of such Holder, the principal amount of Notes such Holder delivered for purchase, and a statement that such Holder is withdrawing its election to have such Notes purchased; and
- that if any Note is purchased only in part a new Note will be issued in principal amount equal to the unpurchased portion of the Note surrendered.

On or before the Change of Control Payment Date for the Notes, the Company will, to the extent lawful:

- accept for payment all Notes or portions of Notes (in denominations of $2,000 and integral multiples of $1,000 in excess thereof) validly tendered and not withdrawn pursuant to the Change of Control Offer, provided that if, following repurchase of a portion of a Note, the remaining principal amount thereof would be less than $2,000, then the portion of such Note so repurchased shall be reduced so that the remaining principal amount of such Note outstanding immediately after such repurchase is $2,000;
- deposit with a paying agent an amount equal to the payment due in respect of all Notes or portions thereof so tendered and not withdrawn;

- deliver or cause to be delivered to the Trustee for cancellation the Notes so accepted for payment; and
- deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the applicable provisions of the Indenture.

The Company, the depositary, if any, appointed by the Company for such Change of Control Offer or a paying agent, as the case may be, shall promptly mail or deliver (or, in the case of Global Notes, deliver in accordance with the applicable procedures, if any, of the Depositary) to each tendering Holder an amount equal to the Change of Control Purchase Price of the Notes validly tendered by such Holder and not withdrawn and accepted by the Company for purchase. Further, the Company shall promptly issue a new Note, and the Trustee, upon written request from the Company, shall authenticate and mail or deliver (including by book-entry transfer) such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note accepted for payment (it being understood that, notwithstanding anything in the Indenture to the contrary, no Officers' Certificate or opinion of counsel will be required for the Trustee to authenticate and mail or deliver any such new Note). Any Note not so accepted shall be promptly mailed or delivered (including by book-entry transfer) by the Company or the Trustee to the Holder thereof.

Interest on Notes (or portions thereof) validly tendered and not withdrawn pursuant to a Change of Control Offer will cease to accrue on and after the applicable Change of Control Payment Date (unless the Company shall default in the payment of the Change of Control Purchase Price of the Notes).

If the Change of Control Payment Date is on or after a record date and on or before the related interest payment date for the Notes, any accrued and unpaid interest on the Notes to, but excluding, the Change of Control Payment Date will be paid to the Persons in whose names the applicable Notes are registered at the close of business on the applicable record date.

The Company will not be required to make a Change of Control Offer for the Notes upon a Change of Control Triggering Event if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the Indenture that are applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything in the Indenture to the contrary, a Change of Control Offer may be made in advance of a Change of Control or a Change of Control Triggering Event conditioned upon the occurrence of such a Change of Control or Change of Control Triggering Event, if a definitive agreement regarding such Change of Control is in effect at the time of making the Change of Control Offer.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Notes pursuant to a Change of Control Offer. To the extent that any securities laws or regulations conflict with the provisions of the Indenture relating to a Change of Control Offer, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under such provisions of the Indenture by virtue thereof.

The provisions of the Indenture relating to the Company's obligation to make an offer to repurchase the Notes as a result of a Change of Control Triggering Event (including the definitions relating thereto) and the terms of any such offer may, subject to the limitations described below under "—Modification of the Notes, any Guarantees or the Indenture," be waived or modified with the written consent of the Holders of a majority in aggregate principal amount of the outstanding Notes.

The provisions described above may deter certain mergers, tender offers and other takeover attempts involving the Company by increasing the capital required to effectuate such transactions.

The Change of Control Triggering Event provisions of the Notes may not provide Holders of Notes protection in the event of highly leveraged transactions, reorganizations, restructurings, takeovers, acquisitions, mergers, recapitalizations or similar transactions involving us that might adversely affect holders of Notes. In particular, any such transaction may not give rise to a Change of Control Triggering Event, in which case we would not be required to make a Change of Control Offer. Except as described above, the Indenture will not contain provisions that permit the Holders of the Notes to require that the Company repurchase or redeem the Notes in the event of highly leveraged transactions, reorganizations, restructurings, takeovers, acquisitions, mergers, recapitalizations or similar transactions involving us.

The definition of "Change of Control" includes a disposition of "all or substantially all" of the assets (subject to certain exceptions) of the Company and its Subsidiaries taken as a whole to any Person. Although there is a limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty as to whether a particular transaction would involve a disposition of "all or substantially all" of such assets of the Company and its Subsidiaries. As a result, it may be unclear as to whether a Change of Control or Change of Control Triggering Event has occurred and whether the Company is required to make an offer to repurchase the Notes as described above.

More generally, courts interpreting change of control provisions under New York law (which is the governing law of the Notes and the Indenture) have not provided a clear and consistent meaning of such change of control provisions, and no assurance can be given as to how or if a court would enforce the Change of Control Triggering Event provisions applicable to the Notes or how those provisions would be impacted were we to become a debtor in a bankruptcy case.

We may be unable to repurchase the Notes upon a Change of Control Triggering Event because we may not have sufficient funds available or we may be prohibited from doing so by the terms of our other indebtedness. In that regard, the Existing Senior Notes include a covenant substantially similar to the covenant applicable to the Notes as described under this caption "—Change of Control." In addition, a transaction constituting a Change of Control Triggering Event, Change of Control or similar event and certain other events or transactions relating to, for example, the composition of our board of directors, our adoption of a plan for liquidation or dissolution, a change in control in the Manager or the Manager ceasing to be our manager, constitute or may constitute events of default or require or may require us to repay or offer to repurchase or repay outstanding indebtedness under other existing or future credit agreements, repurchase agreements, indentures or other instruments or agreements relating to indebtedness to which we or any of our subsidiaries is or becomes a party. Accordingly, we cannot assure you that we will have sufficient financial resources available to repurchase or repay Notes or other indebtedness should we be required to do so upon the occurrence of a Change of Control Triggering Event, Change of Control or other event or transaction. Any failure to repurchase or repay any existing of future indebtedness, should it become due and payable as the result of a Change of Control Triggering Event, Change of Control or other event, would likely have a material adverse effect on our business, results of operations and financial condition and could result in the acceleration of other indebtedness of us and our subsidiaries pursuant to cross-default and cross-acceleration provisions. In addition, certain existing or future indebtedness of ours and our subsidiaries requires or may require us or our subsidiaries to repay or offer to repurchase such indebtedness upon the occurrence of certain changes of control or similar events which may not constitute a Change of Control or a Change of Control Triggering Event. See "Risk Factors—Risks Related to the

Notes and to this Offering—Our ability to repurchase Notes upon a Change of Control Triggering Event may be limited."

Moreover, we will be required to offer to repurchase Notes only if both a Change of Control and certain declines in the credit ratings on the Notes occur. By contrast, any requirement that we repurchase or repay or offer to repurchase or repay, as applicable, indebtedness outstanding under the Existing Repurchase Agreements, the Existing Convertible Senior Notes or the Existing Credit Agreements upon the occurrence of a Change of Control (or similar event) or certain other events relating to, for example, certain changes in the composition of our board of directors, our adoption of a plan of liquidation or dissolution, a change in control in the Manager or the Manager ceasing to be our manager, will arise, in each case, without any requirement that there also be a decline in our credit rating, and other existing and future instruments and agreements relating to indebtedness of us and our subsidiaries may have similar provisions. As a result, we may be required to repay or repurchase or offer to repay or repurchase indebtedness outstanding under the Existing Repurchase Agreements, the Existing Convertible Senior Notes, the Existing Credit Agreements and other existing and future instruments and agreements relating to indebtedness before we are required, or without our being required, to repurchase or offer to repurchase the Notes.

Certain covenants

Covenant termination

The Indenture will contain the provisions described above under "—Possible Future Guarantees" and below under this "—Certain Covenants" section. However, the Indenture will provide that the provisions described above under "—Possible Future Guarantees" (other than the portions of such covenant limiting the obligations of each Guarantor (if any) under its Guarantee of the Notes as described in the third paragraph under such caption and the portions of such covenant relating to the release of any Guarantor from its Guarantee of the Notes as described in the fourth paragraph under such caption) and the provisions described below under "—Limitation on Incurrence of Additional Indebtedness" and clauses (2) and (4) of the first paragraph under "—Merger, Consolidation and Sale of Assets" (collectively, the "Terminated Covenants") will automatically and permanently terminate and will be of no further force or effect, and the Company will be automatically and permanently released from all of its obligations thereunder, on and after any date (the "Covenant Termination Date") that (a) the Notes have an Investment Grade Rating from both Rating Agencies and (b) no Default or Event of Default has occurred and is continuing with respect to the Notes, and thereafter any omission to comply with any of the Terminated Covenants (or the Guarantees, if any, of the Notes, which Guarantees also shall be automatically and permanently terminated and released as provided below) shall not constitute a breach, Default or Event of Default under the Notes or the Indenture.

All of the Guarantees, if any, of the Notes will automatically and permanently terminate and will be of no further force or effect, and all of the obligations of the Guarantors, if any, under such Guarantees and the Indenture will be automatically and permanently released, on the Covenant Termination Date.

The Indenture will provide that the Company shall deliver an Officers' Certificate to the Trustee notifying the Trustee of the Covenant Termination Date promptly (but in no event later than ten Business Days) after such date, and that the Trustee shall have no obligation to monitor or determine whether a Covenant Termination Date has occurred, provided that any failure by the Company to deliver any such Officers' Certificate shall not constitute a Default or Event of Default or affect the automatic and permanent termination of the Terminated Covenants, Guarantees (if any) of the Notes and other obligations described above on the Covenant Termination Date.

There can be no assurance that the Notes will ever receive an Investment Grade Rating from any Rating Agency or, if they do, that such rating will be maintained.

Limitation on Incurrence of Additional Indebtedness

The Indenture will provide that the Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume, guarantee or otherwise become liable for payment of (collectively, "incur") any Indebtedness (including, without limitation, Acquired Indebtedness) other than Permitted Indebtedness and other than as provided in the next paragraph.

Notwithstanding the foregoing, the Company or any of its Subsidiaries may incur Indebtedness (including, without limitation, Acquired Indebtedness) if, on the date of the incurrence of such Indebtedness and immediately after giving effect to the incurrence of such Indebtedness and the repayment, repurchase, defeasance, redemption or other discharge of any other Indebtedness with the proceeds of the Indebtedness being so incurred or in connection with the transactions pursuant to which such Indebtedness is being incurred, on a pro forma basis:

(1) the Consolidated Fixed Charge Coverage Ratio of the Company is greater than 1.5 to 1.0; and

(2) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence of incurring such Indebtedness.

Maintenance of Total Unencumbered Assets

The Indenture will provide that the Company will maintain Total Unencumbered Assets of not less than 120% of the aggregate outstanding principal amount of the Unsecured Indebtedness of the Company and its Subsidiaries, in each case determined on a consolidated basis in accordance with GAAP.

Merger, consolidation and sale of assets

The Indenture will provide that the Company will not, in a single transaction or series of related transactions, consolidate or merge with or into any Person, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Company's properties and assets determined on a consolidated basis (other than sales, assignments, transfers, leases, conveyances or other dispositions of Securitization Assets, Repurchase Agreement Assets, Investments or other securities or assets, in each case in the ordinary course of business) to any Person, unless:

(1) either

(a) the Company shall be the surviving or continuing Person; or

(b) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition all or substantially all of the Company's properties and assets (the "Surviving Entity"):

(i) shall be an entity organized and validly existing under the laws of the United States or any State thereof or the District of Columbia; and

(ii) shall expressly assume, by supplemental indenture, executed and delivered to the Trustee, the due and punctual payment of the principal of, and premium, if any, and interest on all of the Notes and the performance of every covenant in the Notes and the Indenture on the part of the Company to be performed or observed;

(2) immediately after giving effect to such transaction and, if applicable, the assumption contemplated by clause (1)(b)(ii) above (including giving pro forma effect to any Indebtedness

and Acquired Indebtedness incurred and any repayment, repurchase, defeasance, redemption or other discharge of Indebtedness by the Company or the Surviving Entity, as the case may be, or any of their respective Subsidiaries in connection with such transaction), the Company or such Surviving Entity, as the case may be: (a) shall have a Consolidated Net Worth equal to or greater than the Consolidated Net Worth of the Company immediately prior to such transaction, in each case determined as of the end of the most recent fiscal quarter ending on or prior to the date of such transaction for which financial statements of the Company or the Surviving Entity, as the case may be, are available; or (b) shall be able to incur at least $1.00 of additional Indebtedness pursuant to the second paragraph of the "—Limitation on Incurrence of Additional Indebtedness" covenant; or (c) shall have a Consolidated Fixed Charge Coverage Ratio that is equal to or greater than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction (the computations required by clauses (b) and (c) above shall be computed on a pro forma basis giving effect to such transaction as if it had occurred at the beginning of the most recent Four Quarter Period ended on or prior to the date of such transaction for which financial statements of the Company or the Surviving Entity, as the case may be, are available and the other pro forma adjustments set forth in the definition of Consolidated Fixed Charge Coverage Ratio). If the transaction involves a Surviving Entity and the Company and the Surviving Entity have different fiscal quarters, then the relevant Four Quarter Period and, for purposes of clause (a) of this paragraph (2), the relevant fiscal quarter, may, at the election of the Company, be based on either the Company's or the Surviving Entity's fiscal quarters;

(3) immediately after giving pro forma effect to such transaction (and treating any Indebtedness that becomes an obligation of the Company or the Surviving Entity, as the case may be, or any of its Subsidiaries as a result of such transaction as having been incurred by the Company or the Surviving Entity, as the case may be, or such Subsidiary at the time of such transaction, and any Indebtedness to be repaid, repurchased, defeased, redeemed or otherwise discharged by the Company or the Surviving Entity or any of their respective Subsidiaries in connection with such transaction as having been repaid, repurchased, defeased, redeemed or otherwise discharged at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(4) if the Surviving Entity is not the Company, each Guarantor (unless it is the Surviving Entity, in which case clause (1)(b) above shall apply) shall have by supplemental indenture confirmed that its Guarantee of the Notes shall apply to such Surviving Entity's obligations under the Indenture and the Notes; and

(5) the Company or the Surviving Entity shall have delivered to the Trustee an Officers' Certificate and an opinion of counsel (which opinion may be subject to customary assumptions, limitations and exceptions), each stating that such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with the applicable provisions of the Indenture.

Notwithstanding the foregoing provisions of this "—Merger, Consolidation and Sale of Assets" covenant, any Subsidiary of the Company may merge or consolidate with or into or transfer all or any part of its properties and assets to the Company or the Surviving Entity or any other Subsidiary of the Company or the Surviving Entity and the foregoing provisions and, except in the case of a merger or consolidation with or into the Company or the Surviving Entity, the last paragraph of this "—Merger, Consolidation and Sale of Assets" covenant shall not apply to any such transaction.

The Indenture will provide that, for purposes of the foregoing, the sale, assignment, transfer, lease, conveyance or other disposition, in a single transaction or series of related transactions, of all or substantially all of the properties and assets of one or more Subsidiaries of the

Company (other than sales, assignments, transfers, leases, conveyances or other dispositions of Securitization Assets, Repurchase Agreement Assets, Investments or other securities or assets, in each case in the ordinary course of business), the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

The Indenture will provide that, for purposes of clarity, it is understood and agreed that references under this caption "—Merger, Consolidation and Sale of Assets" to sales, assignments, transfers, leases, conveyances or other dispositions of Securitization Assets, Repurchase Agreement Assets, Investments or other securities or assets in the ordinary course of business shall include, without limitation, any sales, assignments, transfers, leases, conveyances or other dispositions of Securitization Assets, Repurchase Agreement Assets, Investments or other securities or assets (1) that are made (x) to any Securitization Entity for the purpose of enabling such Securitization Entity to securitize the assets so sold, assigned, transferred, leased, conveyed or disposed of or enabling such Securitization Entity to issue Non-Recourse Indebtedness secured by such assets or to enter into any Repurchase Agreements with respect to such assets or (y) to any Person pursuant to a Repurchase Agreement that is otherwise permitted (or not prohibited) by the Indenture, under which such Person is a buyer of Repurchase Agreement Assets, and (2) that the Company in good faith determines to be consistent with past practice of the Company or any of its Subsidiaries or to reflect customary or accepted practice in the businesses, industries or markets in which the Company or any of its Subsidiaries operates or reasonably expects to operate or that reflect reasonable extensions, evolutions or developments of any of the foregoing (including, without limitation, by way of new transactions or structures), and as a result, none of the foregoing shall constitute a sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the Company's properties and assets, on a consolidated basis or otherwise, for purposes of the other paragraphs under this caption "—Merger, Consolidation and Sale of Assets." The Indenture will provide that upon any consolidation or merger or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company in accordance with the foregoing in which the Company is not the surviving or continuing entity, as the case may be, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under the Indenture and the Notes with the same effect as if such Surviving Entity had been named as the "Company" therein, and the Company shall be released from all of its obligations under the Indenture and the Notes; provided that, in the case of a lease of all or substantially all of the properties and assets of the Company, the Company will not be released from its obligation to pay the principal of and premium, if any, and interest on the Notes.

The Indenture will further provide that, if the Surviving Entity in any transaction described in, and made in compliance with, this "—Merger, Consolidation and Sale of Assets" section shall be a Guarantor of the Notes, or if a Guarantor shall merge or consolidate with or into the Company or the Surviving Entity, as the case may be, in any transaction described in, and made in compliance with this "—Merger, Consolidation and Sale of Assets" section, such Guarantor's Guarantee of the Notes will automatically terminate and be released and such Guarantor will automatically be released from all of its obligations under its Guarantee of the Notes and all of its obligations as a Guarantor under the Indenture contemporaneously with such transaction.

Reports to holders

The Indenture will provide that, whether or not required by the rules and regulations of the SEC and so long as any Notes are outstanding, the Company will mail or otherwise transmit to the Holders of the outstanding Notes:

(1) all quarterly and annual financial information that would be required to be contained in Items 6, 7, 7A and 8 of Part II of a filing with the SEC on Form 10-K and Items 1, 2, and 3 of Part I of a filing with the SEC on Form 10-Q, as applicable, if the Company were required to file such forms pursuant to the Exchange Act and the applicable rules and regulations of the SEC thereunder and, with respect to the annual information only, a report on the Company's annual financial statements by the Company's independent public accounting firm, in each case within 15 days after the last day of the applicable time period for filing with the SEC (plus any applicable extensions of such time period) specified in the relevant form or in the rules and regulations of the SEC or any other applicable laws, rules or regulations; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports pursuant to the Exchange Act and the applicable rules and regulations of the SEC thereunder, in each case within three Business Days after the last day of the applicable time period for filing with the SEC (plus any applicable extensions of such time period) specified in Form 8-K or in the rules and regulations of the SEC or any other applicable laws, rules or regulations; provided, however, that no such report will be required to be furnished to the extent such report would be required by Items 1.04, 3.01, 3.02, 3.03, 5.02(e), 5.03, 5.04, 5.05, 5.06, 5.07 or 5.08 of Form 8-K;

provided, however, that, in the event that the Company is not subject to the reporting requirements of Sections 13(a) or 15(d) of the Exchange Act, (i) the time periods for filing of the foregoing information and reports (collectively, the "Financial Reports") specified in the relevant forms or rules and regulations of the SEC or any other applicable laws, rules or regulations as described in clauses (1) and (2) above shall be those applicable to a non-accelerated filer or shall otherwise be the longest available time period under such forms, rules and regulations of the SEC or other applicable laws, rules or regulations, as the case may be, (plus any applicable extensions of such time period), and (ii) the Financial Reports (A) will not be required to comply with Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 and 308 of Regulation S-K promulgated by the SEC, or Item 10(e) of Regulation S-K or Regulation G (with respect to any non-GAAP financial measures contained therein) promulgated by the SEC, (B) will not be required to include information required by Item 601 of Regulation S-K promulgated by the SEC, (C) will not be required to include financial statements for any acquired entity, businesses or assets (whether acquired by merger, consolidation, acquisition of assets or Capital Stock or otherwise) unless such acquisition has occurred and such financial statements would be required by Rule 3-05 of Regulation S-X promulgated by the SEC to be included in an annual report on Form 10-K, quarterly report on Form 10-Q or current report on Form 8-K of the Company, as the case may be, provided that, notwithstanding that such Rule 3-05 or any other law, rule or regulation would require that some or all of such financial statements be audited, the Company may nonetheless deliver unaudited financial statements unless the Company shall have obtained such audited financial statements in connection with such acquisition, and provided, further, that the Company shall in no event be required to provide any financial statements as of dates or for periods earlier or other than the dates or periods that would otherwise be required by such Rule 3-05 for any such acquisition, and (D) will not be required to include the schedules identified in Rule 5-04 of Regulation S-X promulgated by the SEC. For purposes of clarity, it is understood and agreed that (x) the Company may, in its sole discretion, include in any of the Financial Reports information in addition to that specified in clauses (1) and (2) above and any information that it would otherwise be entitled to omit pursuant to the provisions described above, and (y) no financial

statements shall be required for the acquisition or disposition of any entity, business or assets (whether acquired or disposed of by merger, consolidation, acquisition or disposition of assets or Capital Stock or otherwise) unless such acquisition or disposition, as the case may be, shall have occurred.

In addition, the Indenture will provide that the Company and the Guarantors, if any, will agree to make available to Holders of any outstanding Notes and to prospective purchasers designated by such Holders, upon request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as such Notes (other than Notes held by the Company or an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company) are not freely transferable under the Securities Act.

The Indenture will provide that, if the Company is a Subsidiary of any direct or indirect parent entity, the Financial Reports required pursuant to the first paragraph of this "Reports to Holders" section may be those of such parent entity instead of the Company; provided that, if there are material differences (as determined in good faith by the Company) between the consolidated results of operations and financial condition of such parent entity and its consolidated Subsidiaries, on the one hand, and of the Company and its consolidated Subsidiaries, on the other hand, the quarterly and annual Financial Reports required by the first paragraph above will include a presentation (which may be unaudited), either on the face of the financial statements or in the notes thereto, of the financial condition and results of operations of the Company and its Subsidiaries (it being understood and agreed that such presentation may take the form of a condensed consolidating statement of operations and a condensed consolidating balance sheet (in each case without notes thereto) or a presentation similar to that required by Rule 3-10 of Regulation S-X promulgated by the SEC (whether or not such rule is applicable) for the applicable periods).

Anything in the Indenture to the contrary notwithstanding, the Company shall be deemed to have satisfied its obligation to mail, transmit or otherwise furnish any Financial Report or other information pursuant to the first paragraph and the immediately preceding paragraph of this "—Reports to Holders" section by (a) filing or furnishing such Financial Report or other information (or another document containing the information that would otherwise have been included in such Financial Report or containing such other information, as applicable) with the SEC for public availability or (b) posting such Financial Report or other information (or another document containing the information that would otherwise have been included in such Financial Report or containing such other information) on a website (which may be a password protected website) hosted by the Company or by a third party, in each case within the applicable time period specified above.

The Indenture will provide that, if any Financial Report or other information required by this "—Reports to Holders" section (or any other document referred to in the immediately preceding paragraph) is not filed, mailed, posted, transmitted or otherwise furnished within the applicable time period specified above and such Financial Report or other information (or other document) is subsequently mailed, filed, posted, transmitted or otherwise furnished, the Company will be deemed to have satisfied its obligations under this "—Reports to Holders" section with respect to such Financial Report or other information (or other document), as the case may be, and any Default or Event of Default with respect thereto or resulting therefrom shall be deemed to have been cured and any acceleration of the Notes resulting therefrom shall be deemed to have been rescinded so long as such rescission would not conflict with any applicable judgment or decree of a court of competent jurisdiction.

Events of default

The following events will be defined in the Indenture as "Events of Default" with respect to the Notes:

(1) the failure to pay interest on any Notes when the same becomes due and payable and the default continues for a period of 30 days;

(2) the failure to pay the principal of and premium, if any, on any Notes when such principal becomes due and payable, at maturity or otherwise (including the failure to make a payment to purchase Notes validly tendered and not withdrawn pursuant to a Change of Control Offer);

(3) failure by the Company or any Guarantor to comply with any of its other covenants or agreements contained in the Indenture (other than covenants or agreements a default in whose performance would constitute an Event of Default under clause (1) or (2) above) and such default continues for a period of 60 days after the Company receives written notice (with a copy to the Trustee if given by Holders) specifying the default (and demanding that such default be remedied) from the Trustee or the Holders of at least 25% of the outstanding principal amount of the Notes (except in the case of a default with respect to the "—Merger, Consolidation and Sale of Assets" covenant, which will constitute an Event of Default when the Company receives the written notice specified in this clause (3) (with a copy to the Trustee if given by Holders) but without any requirement that such default continue for 60 days);

(4) the failure to pay at final stated maturity (giving effect to any applicable grace periods and any extensions thereof) the principal amount of any Indebtedness for borrowed money (other than Non-Recourse Indebtedness) of the Company or any Subsidiary of the Company and such payment shall not have been made, waived or extended within 30 days after such final stated maturity (giving effect to any applicable grace periods and any extensions thereof) (a "Payment Default"), or the acceleration of the final stated maturity of any Indebtedness for borrowed money (other than Non-Recourse Indebtedness) of the Company or any Subsidiary of the Company and such acceleration shall not have been rescinded, annulled, waived or otherwise cured within 30 days after receipt by the Company or such Subsidiary of the Company of written notice of any such acceleration (an "Acceleration"), if the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other Indebtedness for borrowed money (other than Non-Recourse Indebtedness) of the Company or any Subsidiary of the Company as to which a Payment Default or an Acceleration shall have occurred and shall be continuing, aggregates $170.0 million or more at any time;

(5) certain events of bankruptcy affecting the Company or any of its Significant Subsidiaries; or

(6) any Guarantee of the Notes by a Guarantor that is a Significant Subsidiary of the Company ceases (or the Guarantees of the Notes by a group of Guarantors that together would constitute a Significant Subsidiary of the Company cease) to be in full force and effect for a period of 30 days, or a Guarantor of the Notes that is a Significant Subsidiary of the Company (or a group of Guarantors of the Notes that together would constitute a Significant Subsidiary of the Company) denies or disaffirms its obligations under its Guarantee (or their obligations under their Guarantees, as the case may be) of the Notes unless such denial or disaffirmation, as applicable, is rescinded, canceled or terminated within 30 days, in each case other than by reason of the release, termination or discharge of any such Guarantees or Guarantors in accordance with the terms of the Indenture or as a result of the discharge of the Indenture as described below under "—Satisfaction and Discharge" or as a result of Legal Defeasance or Covenant Defeasance as described below under "—Legal Defeasance and Covenant Defeasance."

If an Event of Default (other than an Event of Default specified in clause (5) above with respect to the Company) shall occur and be continuing, the Trustee or the Holders of at least 25% in

aggregate principal amount of outstanding Notes may declare the principal of and accrued and unpaid interest on all the outstanding Notes to be due and payable by notice in writing to the Company and (if the notice is given by Holders) to the Trustee specifying the Event of Default and that it is a "notice of acceleration," and the same shall become immediately due and payable. If an Event of Default specified in clause (5) above with respect to the Company occurs and is continuing, then all unpaid principal of, and accrued and unpaid interest on, all of the outstanding Notes shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

A notice of Default may not be given by the Trustee with respect to any action taken, and reported publicly or to Holders more than two years prior to such notice of Default. Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a "Noteholder Direction") provided by any one or more Holders (each a "Directing Holder") must be accompanied by a written representation from each such Holder delivered to the Company and the Trustee that such Holder is not (or, in the case such Holder is DTC or its nominee, that such Holder is being instructed solely by beneficial owners of the Notes that are not) Net Short (a "Position Representation"), which representation, in the case of a Noteholder Direction relating to the delivery of a notice of Default (a "Default Direction") shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the Notes are accelerated. In addition, each Directing Holder is deemed, at the time of providing a Noteholder Direction, to covenant to provide the Company with such other information as the Company may reasonably request from time to time in order to verify the accuracy of such Directing Holder's Position Representation within five Business Days of request therefor (a "Verification Covenant"). In any case in which the Holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the Notes in lieu of DTC or its nominee and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Company determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Company has initiated litigation in a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Company provides to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such Holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such Holder, the percentage of Notes held by the remaining Holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred, acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee during the pendency of an Event of Default described in clause (5) above shall not require compliance with the preceding two paragraphs.

The Trustee shall be entitled to conclusively rely on any Noteholder Direction delivered to it in accordance with the Indenture that is accompanied by the required Position Representations, and shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officers' Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise. The Trustee shall have no liability to the Company, any holder or any other Person in acting in good faith on a Noteholder Direction that is accompanied by the required Position Representations or on an Officers' Certificate from the Company, in either case, pursuant to which the Trustee refrains from taking any action or stays any remedy in good faith with respect thereto or in reliance thereon.

The Indenture will provide that, at any time after an acceleration with respect to Notes as described in the preceding paragraph, the Holders of a majority in principal amount of the outstanding Notes may rescind and cancel such acceleration and its consequences:

(1) if the rescission would not conflict with any judgment or decree of a court of competent jurisdiction;

(2) if all existing Events of Default, other than nonpayment of principal of or interest on the Notes that have become due solely because of the acceleration, have been cured or waived;

(3) if, to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, in each case which have become due otherwise than by such acceleration, at a per annum rate equal to the interest rate per annum borne by the Notes, has been paid; and

(4) if the Company has paid the Trustee its reasonable compensation and reimbursed the Trustee for its reasonable expenses, disbursements and advances.

The Indenture will provide that, in the event of acceleration of the Notes because an Event of Default specified in clause (4) of the first paragraph under this caption "—Events of Default" has occurred and is continuing, the acceleration of the Notes shall be automatically rescinded and cancelled if (a) within 60 days after such acceleration of the Notes as a result of such Event of Default, the aggregate principal amount of Indebtedness for borrowed money (other than Non-Recourse Indebtedness) of the Company or any Subsidiary of the Company as to which a Payment Default or an Acceleration shall have occurred and shall be continuing shall be less than $170.0 million, whether as a result of any such Payment Default or Payment Defaults or Acceleration or Accelerations, as the case may be, having been remedied or cured or waived by the holders of the relevant Indebtedness, the relevant Indebtedness having been repaid, redeemed, defeased or otherwise discharged, or otherwise, (b) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (c) all existing Events of Default, other than nonpayment of the principal of or interest on the Notes that shall have become due solely because of the acceleration, have been cured or waived.

No rescission of acceleration of the Notes pursuant to the provisions described in the two immediately preceding paragraphs shall affect any subsequent Default or impair any right consequent thereto.

The Holders of a majority in principal amount of the outstanding Notes may waive, by their consent (including, without limitation, consents obtained in connection with a purchase of, or

tender offer or exchange offer for, the Notes), any Default or Event of Default and its consequences, except a continuing default in the payment of the principal, premium, if any, or interest on any Notes held by any non-consenting Holder (excluding a default in payment resulting from an acceleration that has been or is being waived or rescinded or that has been cured).

Holders of the Notes may not enforce the Indenture or the Notes or any Guarantees of the Notes except as provided in the Indenture and the TIA. Subject to the provisions of the Indenture relating to the duties of the Trustee if a default occurs, the Trustee is under no obligation to exercise any of its rights or powers under the Indenture at the request, order or direction of any of the Holders of the Notes, unless such Holders have offered to the Trustee security and/or indemnity reasonably satisfactory to the Trustee. Subject to all provisions of the Indenture and applicable law, the Holders of a majority in aggregate principal amount of the then outstanding Notes have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee under the Indenture.

Under the Indenture, the Company is required to provide an Officers' Certificate to the Trustee promptly upon any Senior Officer of the Company obtaining knowledge of any Default or Event of Default, and is also required to provide an annual Officers' Certificate indicating whether or not the officers signing such certificate know of any Default or Event of Default under the Indenture and, if applicable, describing such Default or Event of Default and the status thereof.

Legal defeasance and covenant defeasance

The Company may, at its option and at any time, elect to have its obligations and the obligations of all Guarantors, if any, discharged with respect to the outstanding Notes ("Legal Defeasance"). Such Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by the outstanding Notes, the Guarantors, if any, shall be released from all of their obligations under the Indenture and their Guarantees of the Notes, and the Company shall be released from all of its other obligations under the Indenture and the Notes, except that the following provisions of the Indenture shall survive:

(1) the rights of Holders to receive, solely from the trust fund described below, payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due;

(2) the Company's obligations with respect to the Notes concerning issuing temporary Notes, registration of Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payments on the Notes;

(3) the rights, powers, trust, duties and immunities of the Trustee and the Company's obligations in connection therewith; and

(4) the Legal Defeasance provisions of the Indenture.

In addition, the Company may, at its option and at any time, elect to have the obligations of the Company and the Guarantors, if any, under the Indenture released with respect to, among other things, the covenants described above under the captions "—Possible Future Guarantees," "—Change of Control," "—Certain Covenants—Limitation on Incurrence of Additional Indebtedness," "—Certain Covenants—Maintenance of Total Unencumbered Assets," "—Certain Covenants—Reports to Holders" and clauses (2) and (4) of the first paragraph under "—Certain Covenants—Merger, Consolidation and Sale of Assets" ("Covenant Defeasance") and thereafter any omission to comply with such obligations shall not constitute a Default or Event of Default. In the event Covenant Defeasance occurs, (x) the Events of Default described in clauses (1) and (2) (solely insofar as such clauses relate to any failure to pay amounts due in connection with a

Change of Control Offer), clause (3) (solely insofar as it relates to the covenants and agreements as to which Covenant Defeasance has occurred), clause (4), clause (5) (except with respect to Company) and clause (6) of the first paragraph under "—Events of Default" will no longer constitute Events of Default and (y) Guarantors, if any, of the Notes shall be automatically released from all of their obligations under their Guarantees of the Notes and the Indenture and such Guarantees will be automatically released, terminated and discharged.

In order to effect either Legal Defeasance or Covenant Defeasance:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes cash in U.S. dollars in such amount as will be sufficient, U.S. Government Obligations the scheduled payments of principal of and interest on which will be sufficient (without any reinvestment of such interest), or a combination thereof in such amounts as will be sufficient, as confirmed, certified or attested by an Independent Financial Advisor in writing to the Trustee, to pay the principal of, premium, if any, and interest on the Notes on the stated maturity date thereof or any earlier Redemption Date;

(2) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an opinion of counsel in the United States (which opinion of counsel may be subject to customary assumptions, exceptions and limitations) confirming that:

(a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or

(b) since the date of the Indenture, there has been a change in the applicable U.S. federal income tax law;

in either case to the effect that, and based thereon such opinion of counsel shall confirm that, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Company shall have delivered to the Trustee an opinion of counsel in the United States (which opinion of counsel may be subject to customary assumptions, exceptions and limitations) confirming that the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default and Event of Default resulting from borrowing of funds to be applied to make such deposit and any similar or substantially contemporaneous transactions and, in each case, the granting of any Liens in connection therewith);

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any agreement or instrument that, in the judgment of the Company, is material with respect to the Company and its Subsidiaries taken as a whole (excluding the Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(6) the Company shall have delivered to the Trustee an Officers' Certificate and an opinion of counsel (which opinion of counsel may be subject to customary assumptions, exceptions and limitations), each stating that all conditions precedent provided for in the Indenture to such Legal Defeasance or Covenant Defeasance, as the case may be, have been complied with; and

(7) the Company shall have delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes on the stated maturity date thereof or on the applicable Redemption Date, as the case may be (which instructions may be contained in the Officer's Certificate referred to in clause (6) above).

Notwithstanding the foregoing, the opinion of counsel required by clause (2) above with respect to a Legal Defeasance need not be delivered if all Notes not theretofore delivered to the Trustee for cancellation (1) have become due and payable or (2) will become due and payable on their maturity date or any earlier Redemption Date within one year and, in the case of any such redemption, under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.

Satisfaction and discharge

The Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes as expressly provided for in the Indenture and except for the Trustee's right to reimbursement of fees and expenses and indemnification as expressly provided for in the Indenture) as to all outstanding Notes, and all of the Guarantees, if any, of the Notes shall be discharged, terminated and released, when:

(1) either

(a) all Notes theretofore authenticated and delivered (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust) have been delivered to the Trustee for cancellation; or

(b) all Notes not theretofore delivered to the Trustee for cancellation have become due and payable by giving of a notice of redemption, upon stated maturity or otherwise, will become due and payable within one year (upon stated maturity or otherwise), or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company, and the Company has irrevocably deposited or caused to be deposited with the Trustee cash in such amount as will be sufficient, U.S. Government Obligations the scheduled payments of principal of and interest on which will be sufficient (without any reinvestment of such interest), or a combination thereof in such amounts as will be sufficient, to pay and discharge the entire Indebtedness on such Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on such Notes to the date of maturity or redemption, as the case may be, together with irrevocable instructions from the Company directing the Trustee to apply such funds to the payment thereof at maturity or redemption;

(2) the Company has paid or caused to be paid all other sums payable by the Company under the Indenture; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an opinion of counsel (which opinion of counsel may be subject to customary assumptions, exceptions and limitations) stating that all conditions precedent under the Indenture relating to the satisfaction and discharge of the Indenture have been complied with.

Modification of the notes, any guarantees or the indenture

From time to time, the Company, the Guarantors (if any) of the Notes and the Trustee, without the consent of the Holders of the Notes, may modify, amend or supplement the Notes, any Guarantees or other guarantees of the Notes or the Indenture:

(1) to cure any ambiguity or omission; or to correct or supplement any provision contained in the Indenture, any Notes or any Guarantees or other guarantees of the Notes which may be defective or inconsistent with any other provision in the Indenture or any of the Notes or any such Guarantees or other guarantees;

(2) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(3) to provide for the assumption of the Company's obligations to the Holders of the Notes by a successor to the Company pursuant to the terms of the Indenture;

(4) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect in any material respect the rights of any Holder of the Notes;

(5) to provide for any Subsidiary of the Company or any other Person to provide a Guarantee or other guarantee of the Notes, to add, novate, confirm or assume a Guarantee or other guarantee of the Notes, to add security to or for the benefit of the Notes or any Guarantee or other guarantee of the Notes, or to confirm and evidence the release, termination or discharge of any Guarantor, Guarantee, other guarantor or other guarantee of the Notes or any Lien with respect to or securing the Notes or any Guarantee or other guarantee thereof, in each case when such release, termination or discharge is provided for under the Indenture, under any Guarantee or other guarantee or under any instrument or agreement creating or evidencing any such Lien, as the case may be;

(6) to conform the provisions of the Indenture, the Notes or any Guarantees of the Notes to this "Description of the Notes" section of this offering memorandum;

(7) to comply with any requirement of the SEC in connection with the qualification of the Indenture under the TIA;

(8) to comply with the rules of any applicable Depositary;

(9) to evidence and provide for the acceptance of appointment under the Indenture of a successor trustee;

(10) to add to the covenants of the Company or any Guarantor or other guarantor of the Notes for the benefit of the Holders of the Notes, to provide that any such additional covenants shall be subject to Covenant Defeasance, to add Events of Default or to surrender any right or power conferred upon the Company or any Guarantor or other guarantor of the Notes pursuant to the Indenture;

(11) to provide for the issuance and delivery of Additional Notes; and

(12) to eliminate the effect of any Accounting Change or the application thereof.

Other modifications, amendments and supplements of the Notes, any Guarantees or other guarantees thereof or the Indenture may be made with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including consents obtained in connection with a purchase of, or a tender offer or exchange offer for, the Notes), and compliance with any provision of the Notes, any Guarantees or other guarantees thereof or the Indenture may be waived with the consent of the Holders of a majority in aggregate principal

amount of the then outstanding Notes (including consents obtained in connection with a purchase of, or a tender offer or exchange offer for, the Notes), except that, without the consent of each Holder of Notes, no amendment, supplement or waiver may:

(1) reduce the amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the rate of or change or have the effect of changing the time for payment of interest, including defaulted interest, on any Notes, except pursuant to clause (6) below;

(3) reduce the principal of or change or have the effect of changing the final stated maturity of any Notes, or change the date on which any Notes may be subject to redemption or reduce the redemption price therefor;

(4) make any Notes payable in currency other than that stated in the Notes;

(5) make any change in provisions of the Indenture providing that the right of each Holder to receive payment of principal of and interest on the Notes on or after the due dates thereof or to bring suit to enforce such payment shall not be impaired without the consent of such Holder, or permitting Holders of a majority in principal amount of Notes to waive Defaults or Events of Default; or

(6) amend, supplement, waive or modify the Company's obligation to make an offer to repurchase the Notes pursuant to the "—Change of Control" covenant set forth above, or reduce the premium payable upon any such repurchase or change the time at which any Notes may be repurchased pursuant to the "—Change of Control" covenant set forth above, whether through an amendment, supplement, waiver or modification of provisions in such covenant or any definitions or other provisions in the Indenture or otherwise, unless such amendment, supplement waiver or modification shall be in effect prior to the occurrence of the applicable Change of Control Triggering Event.

The consent of the Holders of the Notes is not necessary under the Indenture to approve the particular form of any proposed modification, amendment, supplement or waiver. It is sufficient if such consent approves the substance of the proposed modification, amendment, supplement or waiver.

Notices

Except as otherwise provided in the Indenture, notices to Holders of Notes will be given by mail, fax, email or other electronic means to the addresses of the Holders of the Notes as they appear in the Note register (or, in the case of Global Notes, in accordance with any applicable procedures of the Depositary).

Governing law

The Indenture will provide that the Indenture, the Notes and any Guarantees will be governed by, and construed in accordance with, the laws of the State of New York.

The Trustee

The Indenture will provide that, except during the continuance of an Event of Default, the Trustee will perform only such duties as are specifically set forth in the Indenture. During the existence of an Event of Default, the Trustee will exercise such rights and powers vested in it by the Indenture, and use the same degree of care and skill in its exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

The Indenture and the provisions of the TIA contain certain limitations on the rights of the Trustee, should it become a creditor of the Company, to obtain payments of claims in certain cases or to realize on certain property received in respect of any such claim as security or otherwise. Subject to the TIA, the Trustee will be permitted to engage in other transactions with the Company; provided that if the Trustee acquires any conflicting interest as described in the TIA, it must eliminate such conflict or resign.

Certain definitions

Set forth below are the definitions of certain terms used in this "Description of the Notes" section. Reference is made to the Indenture for the definition of certain other terms defined in the Indenture and used in this "Description of the Notes" section for which no definitions are provided herein.

"Accounting Change" has the meaning set forth in the definition of "GAAP."

"Acquired Indebtedness" means Indebtedness of a Person or any of its Subsidiaries existing at the time such Person becomes a Subsidiary of the Company or at the time it merges or consolidates with or into the Company or any of its Subsidiaries or assumed by the Company or any of its Subsidiaries in connection with the acquisition of assets from such Person and in each case whether or not incurred by such Person in connection with, or in anticipation or contemplation of, such Person becoming a Subsidiary of the Company or such merger, consolidation or acquisition. Acquired Indebtedness shall be deemed to have been incurred on the date such Person becomes a Subsidiary of the Company or merges or consolidates with or into the Company or any of its Subsidiaries or the date of the assumption of such Indebtedness by the Company or any of its Subsidiaries, as applicable.

"Acquisition" means any acquisition or other Investment (including by way of merger, amalgamation or consolidation) by the Company or any of its Subsidiaries and any related incurrence of Indebtedness (including the incurrence of Acquired Indebtedness).

"Additional Notes" means additional % Senior Notes due 2023 originally issued under the Indenture after the Issue Date.

"Advances Agreement" means the Amended and Restated Advances, Collateral Pledge, and Security Agreement, dated as of July 7, 2017, between the Federal Home Loan Bank of Chicago and Prospect Mortgage Insurance, LLC, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Affiliate" means, with respect to any specified Person, any other Person who, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such specified Person. As used in the immediately preceding sentence and in the definition of "Subsidiary," the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative of the foregoing.

"Board of Directors" means, as to any Person, the board of directors, managers or trustees or other governing body of such Person (or, if such Person is a partnership or limited liability company that does not have such a governing body, the board of directors, managers or trustees or other governing body of any direct or indirect general partner of such partnership or of any direct or indirect managing member or other managing Person of such limited liability company) or any duly authorized committee thereof.

"Borrowing Base Credit Agreement" means the Third Amended and Restated Credit Agreement dated as of February 28, 2018 among Starwood Property Mortgage Sub-10, L.L.C., Starwood Property Mortgage Sub-10-A, L.L.C., the Company, the other subsidiaries of the Company party thereto, the lenders party thereto from time to time and Bank of America, N.A., as administrative agent, and any other parties thereto from time to time, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Business Day" means each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in The City of New York are authorized or obligated by law or executive order to close.

"Capitalized Lease Obligation" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP and, for purposes of this definition, the amount of such obligations at any date shall be the capitalized amount of such obligations at such date, determined in accordance with GAAP.

"Capital Stock" means:

(1) with respect to any Person other than a business trust, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of or in its corporate stock or, if such Person is not a corporation, its equity; and

(2) with respect to any Person that is a business trust, any and all beneficial ownership interests (however designated and whether or not voting) in such Person;

in each case including each class or series of Common Stock and Preferred Stock of such Person but in each case excluding any Indebtedness or debt securities convertible into or exchangeable for, or any options, warrants, contracts or other securities (including derivative instruments) exercisable or exchangeable for, convertible into or otherwise for or relating to the purchase or sale of, any of the items referred to in clauses (1) or (2) above.

"Cash Management Obligations" means obligations of the Company or any Subsidiary of the Company in relation to (1) treasury, depository or cash management services, arrangements or agreements (including, without limitation, credit, debt or other purchase card programs and intercompany cash management services) or any automated clearinghouse ("ACH") transfers of funds (including reimbursement and indemnification obligations with respect to letters of credit or similar instruments), and (2) netting services, overdraft protections, controlled disbursement, ACH transactions, return items, interstate deposit network services, supplier services, cash pooling and operational foreign exchange management, Society for Worldwide Interbank Financial Telecommunication transfers and similar programs.

"Change of Control" means:

(1) the Company becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, written notice or otherwise) that any "person" or "group" of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Issue Date), other than the Company or any of its Subsidiaries, is or has become the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act as in effect on the Issue Date), directly or indirectly, of Voting Stock of the Company representing more than 50% of the combined voting power of all of the outstanding Voting Stock of the Company; or

(2) the sale, transfer, conveyance or other disposition (other than by way of merger, consolidation or other business combination transaction), in one transaction or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole (other than sales, transfers, conveyances or other dispositions of Securitization Assets, Repurchase Agreement Assets, Investments or other securities or assets, in each case in the ordinary course of business) to any Person (other than the Company and/or one or more Subsidiaries of the Company).

Notwithstanding the foregoing, (I) a transaction will not be deemed to be a Change of Control if (1) the Company becomes a direct or indirect Wholly-Owned Subsidiary of a parent entity and (2) either (A) the direct or indirect holders of the outstanding Voting Stock of such parent entity immediately following that transaction are substantially the same as the holders of the outstanding Voting Stock of the Company immediately prior to that transaction or (B) immediately following that transaction no Person (other than a parent entity satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly, of more than 50% of the combined voting power of all of the outstanding Voting Stock of such parent entity and (II) the reference in clause (2) of the immediately preceding paragraph to sales, transfers, conveyances or other dispositions of Securitization Assets, Repurchase Agreement Assets, Investments or other securities or assets in the ordinary course of business shall include, without limitation, any sales, transfers, conveyances or other dispositions of Securitization Assets, Repurchase Agreement Assets, Investments or other securities or assets (A) that are made (x) to any Securitization Entity for the purpose of enabling such Securitization Entity to securitize the assets so sold, transferred, conveyed or disposed of or enabling such Securitization Entity to issue Non-Recourse Indebtedness secured by such assets or to enter into any Repurchase Agreements with respect to such assets or (y) to any Person pursuant to a Repurchase Agreement that is otherwise permitted (or not prohibited) by the Indenture, under which such Person is a buyer of Repurchase Agreement Assets, and (B) that the Company in good faith determines to be consistent with past practice of the Company or any of its Subsidiaries or to reflect customary or accepted practice in the businesses, industries or markets

in which the Company or any of its Subsidiaries operates or reasonably expects to operate or that reflect reasonable extensions, evolutions or developments of any of the foregoing (including, without limitation, by way of new transactions or structures), and as a result, none of the foregoing shall constitute a Change of Control.

"Change of Control Triggering Event" means the occurrence of both a Change of Control and a Rating Event.

"Commercial Financing Credit Agreement" means the Master Loan and Security Agreement dated as of March 30, 2020 among Starwood Property Mortgage Sub-28, L.L.C., Starwood Property Mortgage Sub-28-A, L.L.C., as borrowers, and Wells Fargo Bank, N.A., London Branch, as lender, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Commodity Agreement" means any commodity futures contract, commodity swap, commodity option or other similar agreement or arrangement designed to protect against fluctuations in the price of commodities or to otherwise manage commodity prices or the risk of fluctuations in commodity prices.

"Common Stock" means, with respect to (a) any Person other than a business trust, any and all shares, interests, participations or other equivalents (however designated and whether voting or non-voting) of or in such Person's common stock or, if such Person is not a corporation, its common equity or (b) any Person that is a business trust, any and all common beneficial ownership interests (however designated and whether voting or non-voting) in such Person, in each case including, without limitation, all series and classes of such common stock, other common equity or common beneficial ownership interests, as the case may be, but in each case excluding any Indebtedness or debt securities convertible into or exchangeable for, or any options, warrants, contracts or other securities (including derivative instruments) exercisable or exchangeable for, convertible into or otherwise for or relating to the purchase or sale of, any of the foregoing. The determination of whether any beneficial ownership interests or equity constitute common beneficial ownership interest or common equity, respectively, shall be made by the Company in good faith.

"Consolidated EBITDA" means, with respect to any Person and for any period, the Consolidated Net Income of such Person plus or minus, as the case may be, the following items (without duplication):

(1) plus, to the extent Consolidated Net Income has been reduced thereby (without duplication):

(a) Consolidated Income Taxes;

(b) Consolidated Interest Expense;

(c) depreciation, depletion and amortization;

(d) restructuring or severance charges or expenses;

(e) any fees and expenses (including any transaction or retention bonus) incurred during such period, or any amortization thereof for such period, in connection with the acquisition (including, without limitation, by merger, consolidation or acquisition of Capital Stock) of Investments or other securities or assets, including any such acquisition consummated prior to the Issue Date and any such acquisition undertaken but not completed, and any charges or non-recurring costs incurred during such period as a result of any such acquisition; and

(f)dividends and distributions paid or made on, or in respect of, partnership interests, limited liability company interests, Capital Stock, beneficial ownership interests, participations, equity interests or other equivalents (however designated and whether voting or non-voting) of any Subsidiary of the Company originally issued in exchange for, or as consideration for, (i) any real property or any interests (including, without limitation, leasehold interests) in real property or in each case any improvements thereon or accessions thereto and/or (ii) any partnership interests, limited liability company interests, Capital Stock, beneficial ownership interests, participations, equity interests or other equivalents (however designated and whether voting or non-voting) of any entity that owns or controls, directly or indirectly, any real property or any interests (including, without limitation, leasehold interests) in real property or in each case any improvements thereon or accessions thereto;

(2) plus, to the extent Consolidated Net Income has been reduced thereby, or minus, to the extent Consolidated Net Income has been increased thereby (without duplication):

(a) any extraordinary or nonrecurring gain (or extraordinary or non-recurring loss or charge), together with any related provision for taxes on any such extraordinary or nonrecurring gain (or the tax effect of any such extraordinary or non-recurring loss or charge);

(b) impairment charges, reserves and write-offs and reversals of any of the foregoing;

(c) any non-cash income or loss attributable to the application of mark-to-market accounting;

(d) after-tax gains and after-tax losses from sales, conveyances, transfers, assignments or other dispositions (including, without limitation, by merger or consolidation) of Investments or other securities or assets, in each case excluding the effect of any cumulative mark to market gains or losses;

(e) income or loss attributable to discontinued operations (including, without limitation, operations disposed of during such period whether or not such operations were classified as discontinued, but not including revenues, expenses, gains and losses relating to real estate properties sold or held for sale, even if they were classified as attributable to discontinued operations under the provisions of FASB Accounting Standards Codification 205 (or any successor or replacement provisions thereto), as the same may be amended, modified and/or supplemented from time to time);

(f) any gain or loss arising from the early extinguishment of any Indebtedness in connection with, and any fees, premiums, expenses or other charges relating to, the Transactions or any Refinancing, redemption, purchase (including, without limitation, by tender offer), retirement, repayment, defeasance or discharge on, prior to, or subsequent to the Issue Date of any Indebtedness of such Person or any of its Subsidiaries, including the amortization or write-off of debt issuance costs and debt discount and fees, costs and other expenses incurred in

connection with entering into, settling or terminating obligations under Interest Rate Agreements in connection with any of the foregoing;

(g) any non-cash compensation charges arising from the grant of, issuance, vesting, exercise or repricing of stock, stock options or other equity-based awards or any amendment, modification, substitution or change of any such stock, stock options or other equity-based awards;

(h) the cumulative effect of a change in accounting principles; and

(i) any unrealized foreign currency transaction gains or losses in respect of Indebtedness denominated in a currency other than the functional currency of such Person and any unrealized foreign exchange gains or losses relating to translation of assets or liabilities denominated in foreign currencies;

all determined on a consolidated basis for such Person and its Subsidiaries in accordance with GAAP.

"Consolidated Fixed Charge Coverage Ratio" means, with respect to any Person and as of any date of determination (the "Determination Date"), the ratio of Consolidated EBITDA of such Person for the most recent Four Quarter Period ending on or prior to such Determination Date for which financial statements are available to Consolidated Fixed Charges of such Person for such Four Quarter Period. In addition to and without limitation of the foregoing, for purposes of this definition, "Consolidated EBITDA" and "Consolidated Fixed Charges" shall be calculated after giving effect on a pro forma basis for the period of such calculation to the following (without duplication):

(1) the incurrence of the Indebtedness, if any, by such Person or any of its Subsidiaries giving rise to the need to calculate the Consolidated Fixed Charge Coverage Ratio and (x) any repayment, repurchase, defeasance, redemption or other discharge (collectively, for purposes of this definition, "repayment"; the terms "repay" and "repaid" shall have correlative meanings for purposes of this definition) of any Indebtedness with the proceeds of the Indebtedness to be incurred or in connection with the transactions pursuant to which such Indebtedness is to be incurred or the transactions giving rise to the need to calculate the Consolidated Fixed Charge Coverage Ratio, as the case may be, and (y) any purchase or other acquisition or origination of any Investments, Persons or other securities or assets made or to be made by such Person or any of its Subsidiaries (in one transaction or a series of related transactions and including, without limitation, by merger, consolidation, acquisition of Capital Stock or otherwise) with the proceeds of the Indebtedness to be incurred or in connection with the transactions pursuant to which such Indebtedness is to be incurred or the transactions giving rise to the need to calculate the Consolidated Fixed Charge Coverage Ratio, as the case may be (including, without limitation, any Consolidated EBITDA attributable to the Investments, Persons or other securities or assets which are being purchased, acquired or originated as aforesaid), in each case as if such incurrence, repayment, purchase, acquisition or origination, as the case may be, had occurred on the first day of the Four Quarter Period;

(2) the incurrence and repayment of any Indebtedness of such Person or any of its Subsidiaries (other than the incurrence or repayment of any Indebtedness which is covered by clause (1) above), including any repayment of any Indebtedness with the proceeds from the incurrence of Indebtedness covered by this clause (2) or in connection with the related transaction referred to in clause (3) of this definition, in each case that occurred during the Four Quarter Period or at any time subsequent to the last day of the Four Quarter Period and on or prior to the Determination Date, as if such incurrence or repayment had occurred on the first day of the Four Quarter Period, but only to the extent the incurrence or repayment of such Indebtedness was made in connection

with a transaction or series of related transactions described in clause (3) below that meets the significance test set forth in such clause (3); provided, however, that such calculation shall not give pro forma effect to the incurrence of any Indebtedness described in this clause (2) if such Indebtedness is not outstanding as of the Determination Date; and

(3) any sale or other disposition or any purchase or other acquisition or origination of any Investments, Persons or other securities or assets (other than any purchase, acquisition or origination covered by clause (1) above) made by such Person or any of its Subsidiaries (including, without limitation, by merger, consolidation, acquisition of Capital Stock or otherwise) in one transaction or a series of related transactions during the Four Quarter Period or at any time subsequent to the last day of the Four Quarter Period and on or prior to the Determination Date (including, without limitation, any Consolidated EBITDA attributable to the Investments, Persons or other securities or assets which were sold, disposed of, purchased, acquired or originated as aforesaid), in each case as if such sale, disposition, purchase, acquisition or origination had occurred on the first day of the Four Quarter Period, but, anything in this clause (3) to the contrary notwithstanding, only if the Investments, Persons or other securities or assets sold, disposed of, purchased, acquired or originated in such transaction or such series of related transactions, as the case may be, met, at the time of such transaction or series of related transactions (or, at the option of the Company, would have met, as of the last day of the Four Quarter Period), the conditions specified in clause (1), (2) or (3) of Rule 1-02(w) of Regulation S-X promulgated by the SEC (as such Rule is in effect on the Issue Date but substituting 20% for 10% each place 10% appears in such Rule and assuming that the Company was the "registrant" and that the Investments, Persons or other securities or assets sold, disposed of, purchased, acquired or originated in such transaction or series of related transactions constituted a "subsidiary" of the Company within the meaning of such Rule), with the calculation of whether any such conditions are met to be made in accordance with GAAP.

If any Indebtedness bears a floating rate of interest and if pro forma effect is being given to the incurrence of such Indebtedness, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Determination Date had been the applicable rate for that portion of the Four Quarter Period during which such Indebtedness was not outstanding (taking into account any Interest Rate Agreement applicable to such Indebtedness if such Interest Rate Agreement has a remaining term in excess of 12 months). If any Indebtedness bears an interest rate chosen at the option of the Company and if pro forma effect is being given to the incurrence of such Indebtedness, the interest rate shall be calculated by applying such optional rate chosen by the Company for that portion of the Four Quarter Period during which such Indebtedness was not outstanding. For purposes of this definition, whenever pro forma effect is to be given to any calculation under this definition, the pro forma calculations will be determined in good faith by the Company and such pro forma calculations may include, for the avoidance of doubt and at the Company's sole discretion, cost savings and expense reductions relating to any transaction which is being given pro forma effect (x) that have been or are expected to be realized within 12 months after the date of such transaction and/or (y) that are determined in accordance with Regulation S-X under the Securities Act.

In making any pro forma calculation, the amount of Indebtedness under any revolving credit facility outstanding on the applicable Determination Date (other than any Indebtedness being incurred under such facility in connection with a transaction giving rise to the need to calculate the Consolidated Fixed Charge Coverage Ratio) will be deemed to be:

(i) the average daily balance of such Indebtedness during the applicable Four Quarter Period or such shorter period for which such facility was outstanding, or

(ii) if such facility was created after the end of such Four Quarter Period, the average daily balance of such Indebtedness during the period from the date of creation of such facility to such Determination Date.

"Consolidated Fixed Charges" means, with respect to any Person for any period, the sum, without duplication, of:

(1) Consolidated Interest Expense (excluding any amortization of debt discount or expense); plus

(2) the amount of all cash dividend payments on any Disqualified Capital Stock of such Person and any Preferred Stock of any Subsidiary (other than any Subsidiary that guarantees payment of the Notes) of such Person (in each case other than dividends paid or payable in Capital Stock that is not Disqualified Capital Stock and dividends paid to such Person or any of its Subsidiaries) paid, accrued or scheduled to be paid or accrued during such period,

all determined on a consolidated basis for such Person and its Subsidiaries in accordance with GAAP.

"Consolidated Income Taxes" means, with respect to any Person for any period, taxes imposed upon such Person and its Subsidiaries by any governmental authority, which taxes or other payments are calculated by reference to the income or profits or capital of such Person and/or any of its Subsidiaries (to the extent such income or profits were included in computing Consolidated Net Income of such Person for such period), including, without limitation, state, franchise and similar taxes and foreign withholding taxes, computed on a consolidated basis in accordance with GAAP but excluding reserves related to uncertain tax positions.

"Consolidated Interest Expense" means, with respect to any Person for any period, the sum of, without duplication:

(1) the aggregate amount of interest expense of such Person and its Subsidiaries for such period; and

(2) to the extent not already included in clause (1), the interest component of Capitalized Lease Obligations paid, accrued and/or scheduled to be paid or accrued by such Person and its Subsidiaries during such period,

all determined on a consolidated basis in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person for any period, the net income (or loss) of such Person and its Subsidiaries before the payment of dividends on Preferred Stock for such period determined on a consolidated basis in accordance with GAAP.

"Consolidated Net Worth" of any Person means the consolidated stockholders' equity (or, if such Person is not a corporation, the consolidated equity interests of its partners, members or other equity owners) of such Person and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, less (without duplication) amounts attributable to Disqualified Capital Stock of such Person and Capital Stock of such Person's consolidated Subsidiaries not owned, directly or indirectly, by such Person.

"Credit Enhancement Agreements" means, collectively, any documents, instruments, guarantees or agreements entered into by the Company, any of its Subsidiaries or any Securitization Entity for the purpose of providing credit support (that is reasonably customary as determined by the Company) with respect to any Indebtedness permitted or not prohibited by the Indenture, including, without limitation, any agreements pursuant to which the Company or any of its Subsidiaries agrees to maintain a certain level of investment in a Securitization Entity for the purposes of complying with any rules or regulations of the SEC or any other applicable laws, rules or regulations relating to risk-retention requirements in connection with securitization transactions.

"Credit Facilities" means, with respect to the Company or any Subsidiary of the Company, any debt, credit, loan, warehousing, securitization or repurchase facilities or agreements (including,

without limitation, the Existing Credit Agreements, any Subsequent Credit Agreement (if entered into), the Existing Repurchase Agreements, any Subsequent Repurchase Agreement (if entered into) and any other Repurchase Agreements), commercial paper or overdraft facilities or agreements, indentures, or other instruments and agreements (any or all of which may be outstanding at the same time), in each case with banks or other lenders, financial institutions, brokers, dealers, trustees, agents, buyers, sellers or other Persons, and any notes, bonds, debentures or similar instruments, in each case providing for, evidencing, creating or pursuant to which there may be incurred, issued, evidenced, secured or created revolving credit loans, term loans, debt securities, receivables financing (including through the sale of receivables to banks, lenders, investors or other Persons or to special purpose entities formed to borrow from banks, lenders, investors or other Persons against such receivables), securitizations, letters of credit, sales and repurchases of Investments or other securities or assets, or other Indebtedness, together in each case with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case whether in effect on the Issue Date or entered into or assumed thereafter and in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Currency Agreement" means any foreign exchange contract, currency swap agreement or other agreement or arrangement designed to protect against fluctuations in currency values or otherwise manage currency exchange rates or currency exchange rate risk.

"Debt Securities" means unsecured debt securities (other than the Notes) of the Company or any of its Domestic Subsidiaries (other than any Domestic Subsidiary that is an Excluded Subsidiary or Securitization Entity) issued by the Company or such Domestic Subsidiary or, in the case of unsecured debt securities as to which the Company and any such Domestic Subsidiary are co-issuers or co-obligors, both of them, as the case may be, in a public offering registered pursuant to the Securities Act or in an offering exempt from such registration pursuant to Rule 144A and/or Regulation S thereunder. For purposes of clarity it is understood and agreed that a Debt Security which was unsecured but that shall thereafter be secured shall cease to be a "Debt Security" within the meaning of the foregoing definition so long as it is secured.

"Default" means an event or condition the occurrence of which is, or with the lapse of time or the giving of notice or both would be, an Event of Default.

"Depositary" means The Depository Trust Company or any successor depositary for the Global Notes.

"Derivative Instrument" with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person's investment in

the Notes (other than a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any material portion thereof) are materially affected by the value and/or performance of the Notes and/or the creditworthiness of the Company and/or any one or more of the Guarantors (the "Performance References").

"Disqualified Capital Stock" means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder thereof) or upon the happening of any event:

(1) matures or is mandatorily redeemable in each case for cash or in exchange for Indebtedness (pursuant to a sinking fund obligation or otherwise); or

(2) is redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of such Capital Stock in whole or in part,

in each case on or prior to the earlier of (a) the stated maturity date of the Notes or (b) the date on which there are no Notes outstanding; provided, however, that (i) only the portion of such Capital Stock which so matures or is mandatorily redeemable or is so exchangeable, redeemable or repurchasable at the option of the holder thereof prior to the earlier of such dates will be deemed to be Disqualified Capital Stock, (ii) any Capital Stock that would constitute Disqualified Capital Stock solely because the holders thereof have the right to require such Person to redeem, repay, exchange or repurchase such Capital Stock upon the occurrence of a change of control triggering event, change of control, fundamental change or similar event (howsoever defined or referred to) shall not constitute Disqualified Capital Stock if any such redemption, repayment, exchange or repurchase obligation is subject to compliance by the relevant Person with the covenant described above under "—Change of Control," (iii) any options, warrants and contracts (including derivative instruments) exercisable or exchangeable for, convertible into or otherwise for or relating to the purchase or sale of Capital Stock, and any securities (other than Capital Stock) convertible into or exchangeable for any shares of Capital Stock, shall not constitute Disqualified Capital Stock, (iv) Capital Stock will not be deemed to be Disqualified Capital Stock as a result of provisions in any stock option plan, restricted stock plan, or other equity incentive plan or any award or agreement issued or entered into thereunder that requires such Person or any of its Subsidiaries, or gives any current or former employee, director or consultant or their heirs, executors, administrators or assigns the right to require such Person or any of its Subsidiaries, to purchase, redeem or otherwise acquire or retire for value or otherwise Capital Stock or any other equity awards (including, without limitation, options, warrants or other rights to purchase or acquire Capital Stock, restricted stock and restricted stock units) issued or issuable under any such plan, award or agreement; and (v) Capital Stock will not constitute Disqualified Capital Stock to the extent that such Person or any of its Subsidiaries has the option of paying for such Capital Stock at maturity, upon mandatory redemption, or upon any redemption, exchange or repurchase at the option of the holder of such Capital Stock, as the case may be, with Capital Stock (other than Disqualified Capital Stock) of such Person, any other Person of which such Person is a Subsidiary or any of their respective Subsidiaries.

"Domestic Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than a Foreign Subsidiary.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Subsidiary" means any of the following Subsidiaries of the Company, whether any such Subsidiary is in existence on the Issue Date or is formed or acquired or becomes a Subsidiary of the Company thereafter: (i) a Subsidiary of the Company that is prohibited, in the good faith judgment of the Company, from providing a Guarantee of the Notes or from incurring or having Indebtedness by any law, rule or regulation, or by any judgment, order, decree, pronouncement,

interpretation or other action of any court, government, or governmental or administrative authority or official or arbitrator having jurisdiction over such Subsidiary or the Company, (ii) any Subsidiary of the Company that, in the good faith judgment of the Company, is prohibited from providing a Guarantee of the Notes or from incurring or having Indebtedness by any instrument or agreement (as the same may be amended, supplemented, restated, replaced or otherwise modified from time to time) to which the Company or any Subsidiary of the Company is a party or by which any of them is bound or by any Organizational Documents (as the same may be amended, supplemented, restated, replaced or otherwise modified from time to time) of any such Subsidiary or (iii) any Subsidiary of the Company if its providing a Guarantee of the Notes would require or would be reasonably likely to require, in the good faith judgment of the Company, the Company or any Subsidiary of the Company to register as an "investment company" under the Investment Company Act or would cause or would be reasonably likely to cause, in the good faith judgment of the Company, the Company or any Subsidiary of the Company to become subject to regulation under the Investment Company Act. For purposes of clarity, it is understood and agreed that a Subsidiary of the Company that is not an Excluded Subsidiary may at any time become an Excluded Subsidiary in accordance with the provisions of the foregoing sentence.

"Existing Convertible Senior Notes" mean the Company's 4.375% Convertible Senior Notes due 2023.

"Existing Credit Agreements" means the Advances Agreement, the Borrowing Base Credit Agreement, the Commercial Financing Credit Agreement, the Infrastructure Lending Business Acquisition Credit Agreement, the Mortgage Loans Warehouse Facility Agreement, the Revolving Facility Credit Agreement, the Sub-5 Infrastructure Financing Credit Agreement, the Sub-6 Infrastructure Financing Credit Agreement and the Term Loan Credit Agreement.

"Existing Repurchase Agreements" means all Repurchase Agreements to which the Company or any of its Subsidiaries is a party as of the Issue Date, in each case together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Existing Senior Notes" means the Company's 5.000% Senior Notes due 2021, 4.750% Senior Notes due 2025 and 3.625% Senior Notes due 2021.

"FASB" means the Financial Accounting Standards Board or any successor thereto.

"fair market value" means, with respect to any asset or property, the price which could be negotiated in an arm's-length, free market transaction, for cash, between a willing seller and a

willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction. Fair market value shall be determined by the Company in good faith.

"Foreign Subsidiary" means, with respect to any Person, (a) any Subsidiary of such Person that is not organized or existing under the laws of the United States, any state thereof or the District of Columbia, and any Subsidiary (including any Subsidiary that would otherwise be a Domestic Subsidiary) of such Subsidiary, (b) any Subsidiary of such Person that has no material assets (with the determination of materiality to be made in good faith by the Company) other than Capital Stock of (or Capital Stock of and debt obligations owed or treated as owed by) one or more Foreign Subsidiaries (or Subsidiaries thereof), and (c) any Subsidiary (including any Subsidiary that would otherwise be a Domestic Subsidiary) of such Person that owns any Capital Stock of a Foreign Subsidiary if its providing a Guarantee of the Notes could reasonably be expected, in the good faith judgment of the Company, to cause any earnings of such Foreign Subsidiary, as determined for U.S. federal income tax purposes, to be treated as a deemed dividend to such Foreign Subsidiary's United States parent for U.S. federal income tax purposes.

"Four Quarter Period" means, with any respect to any Person, any period of four consecutive fiscal quarters of such Person.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time, consistently applied; provided that, (I) notwithstanding the foregoing but subject to clause (II) of this proviso, for purposes of determining compliance with any covenant (including the computation under any financial covenant and any related definitions) contained in the Indenture or the amount of Indebtedness (including, without limitation, for purposes of clause (4) of the first paragraph of the "—Events of Default" section) or other liabilities, assets, stockholders (or other) equity, net worth, revenues, expenses or net income (loss) of any Person or any of its Subsidiaries or any other amounts appearing in, derived from or used in compiling or preparing, the financial statements (including notes thereto) of any Person and/or any of its Subsidiaries, or making any financial or accounting computation or determination relevant to any Person or any of its Subsidiaries, (a) leases shall be classified and accounted for in accordance with FASB Accounting Standards Codification ("ASC") 840 as in effect on December 31, 2018, (b) Indebtedness of any Person and its Subsidiaries shall exclude the effects of ASC 825 and ASC 470-20 (or any successor or replacement provisions thereto), as the same may be amended, modified and/or supplemented from time to time, on financial liabilities, (c) no effect shall be given to ASC 326 (or any successor or replacement provisions thereto), as the same may be amended, modified and/or supplemented from time to time, (d) the Company shall make such adjustments as it determines in good faith are necessary to remove the impact of consolidating any variable interest entities under the requirements of ASC 810 or transfers of financial assets accounted for as secured borrowings under ASC 860, as both of such ASC sections are in effect on the Issue Date and (e) if any Person shall own, directly or indirectly, less than 100% of the outstanding Common Stock of any Subsidiary of such Person, then only a pro rata portion of the Indebtedness, other liabilities, assets, stockholders (or other) equity, net worth, revenues, expenses or net income (loss) of such Subsidiary or any other amounts relevant to such Subsidiary appearing in, derived from or used in compiling or preparing the financial statements (including notes thereto) of such Subsidiary or of such Person and/or any of its Subsidiaries, as applicable, shall be included for purposes of determining compliance with any such covenant or determining any such amount or making any such financial or accounting computation or determination referred to above, such pro rata portion to be proportionate to the percentage of the outstanding Common Stock of such Subsidiary owned, directly or indirectly, by such Person (or, at the option of such Person, proportionate to such Person's total direct and indirect participation or economic interests (expressed as a percentage) in the stockholders (or other) equity or net income (loss) of such Subsidiary or in any other amount or item referred to above or relevant to such Subsidiary or any such determination or computation) and (II) clause (I) of this proviso shall not be applicable for

purposes of the Financial Reports and other reports and information to be delivered by the Company pursuant to the "—Reports to Holders" covenant. For the avoidance of doubt, revenues, expenses, gains and losses that are included in results of discontinued operations because of the application of ASC 205 (or any successor or replacement provisions thereto), as the same may be amended, modified and/or supplemented from time to time, will be treated as revenues, expenses, gains and losses from continuing operations. If there occurs a change in GAAP, and such change would cause a change in the method of calculation of any standards, terms or measures used in the Indenture (an "Accounting Change"), then the Company may elect that such standards, terms or measures shall be calculated as if such Accounting Change had not occurred.

"Guarantee" means, individually, any guarantee of the Notes by a Guarantor pursuant to the terms of the Indenture and, collectively, all such guarantees of the Notes by Guarantors pursuant to the terms of the Indenture, in each case as any such guarantees may be amended or supplemented from time to time.

"Guaranteed Principal Amount" means, with respect to any Domestic Subsidiary of the Company (other than any Domestic Subsidiary that is an Excluded Subsidiary or Securitization Entity) and as of any date, the aggregate principal amount (without duplication) as of such date of (a) all outstanding Debt Securities of the Company for whose payment the Company and such referent Domestic Subsidiary are jointly and severally liable as co-issuers or co-obligors, (b) all outstanding Debt Securities of the Company the payment of which is guaranteed by such referent Domestic Subsidiary, (c) all outstanding Debt Securities of such referent Domestic Subsidiary the payment of which is guaranteed by the Company and (d) all outstanding Guaranteed Subsidiary Debt Securities issued by other Domestic Subsidiaries of the Company (other than Domestic Subsidiaries that are Excluded Subsidiaries or Securitization Entities) the payment of which is guaranteed by such referent Domestic Subsidiary.

"Guaranteed Subsidiary Debt Securities" means Debt Securities issued by any Domestic Subsidiary of the Company (other than any Domestic Subsidiary that is an Excluded Subsidiary or a Securitization Entity) the payment of which is guaranteed by the Company; provided that any such Debt Security will cease to be a Guaranteed Subsidiary Debt Security upon the release, termination, suspension or discharge of the Company's guarantee thereof.

"Guarantor" means each Domestic Subsidiary of the Company, if any, that guarantees the payment of the Notes pursuant to the terms of the Indenture; provided that no Excluded Subsidiary or Securitization Entity shall be deemed to be, or shall be required to become, a Guarantor; and provided, further, that, upon release or discharge of any such Domestic Subsidiary from its Guarantee of the Notes, or upon the termination of any such Guarantee, in accordance with the Indenture, such Domestic Subsidiary shall cease to be a Guarantor.

"Holder" means a person in whose name a Note is registered on the registrar's books.

"incur" has the meaning set forth in the first paragraph under "—Certain Covenants—Limitation on Incurrence of Additional Indebtedness." The terms "incurred" and "incurring" shall have correlative meanings.

"Indebtedness" means with respect to any Person, without duplication:

(1) the principal amount of indebtedness of such Person for borrowed money;

(2) the principal amount of indebtedness of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) all Capitalized Lease Obligations of such Person;

(4) all payment obligations of such Person issued or assumed as the deferred purchase price of property and all payment obligations of such Person under conditional sale or other title retention agreements relating to assets purchased by such Person (but, in each case, excluding trade accounts payable and other accrued liabilities arising in the ordinary course of business and any earn-out or similar obligations and also excluding all obligations other than those relating to payment of the purchase price of the applicable property or assets);

(5) the principal component of all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction (except in each case to the extent such obligations relate to trade payables or other accrued liabilities arising in the ordinary course of business);

(6) Indebtedness of other Persons of the types referred to in clauses (1) through (5) above and clauses (8) and (10) below to the extent (and only to the extent) guaranteed by such referent Person;

(7) Indebtedness of any other Person of the type referred to in clauses (1) through (6) above which is secured by any Lien on any property or asset of such referent Person, the amount of such Indebtedness of such referent Person being deemed to be the lesser of the fair market value of such property or asset and the amount of the Indebtedness of such other Person so secured;

(8) all net payment obligations of such Person under Commodity Agreements, Currency Agreements and Interest Rate Agreements of such Person, other than obligations incurred or agreements entered into for hedging purposes;

(9) all outstanding Disqualified Capital Stock issued by such Person, with the amount of Indebtedness represented by such Disqualified Capital Stock being equal to the greater of its voluntary or involuntary liquidation preference and, if such Disqualified Capital Stock is subject to repurchase at the option of holder, its maximum fixed repurchase price (or, if such Disqualified Capital Stock does not have a liquidation preference or a maximum fixed repurchase price, its estimated repurchase price as determined by the Company in good faith), but excluding in each case accrued dividends and premium, if any (for purposes of this clause (9), "fixed repurchase price" shall mean a price specified as a fixed amount in U.S. dollars or other applicable currency); and

(10) all repurchase obligations (excluding accrued interest or any portion of such obligations representing accrued interest) of such Person under Repurchase Agreements to which it is party.

For purposes of determining the amount of Indebtedness under any covenants, definitions or other provisions of the Indenture, (a) guarantees of, and obligations in respect of letters of credit, bankers' acceptances and other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included and the incurrence or creation of any such guarantees, obligations or Liens shall not be deemed to be the incurrence of Indebtedness; (b) unless otherwise expressly provided in the Indenture, the amount of Indebtedness issued at a price that is less than the principal amount thereof shall be equal to the amount of the liability in respect thereof determined in accordance with GAAP; and (c) if any Person shall own, directly or indirectly, less than 100% of the outstanding Common Stock of any Subsidiary of such Person, then only a pro rata portion of the Indebtedness, of such Subsidiary shall be included for purposes of determining the amount of Indebtedness of such Person and its Subsidiaries on a consolidated basis, such pro rata portion to be determined as set forth in the definition of GAAP. For purposes of clarity, it is understood and agreed that, anything in the Indenture to the contrary notwithstanding, Indebtedness of variable interest entities (within the meaning of GAAP) shall not be deemed Indebtedness of any Person or any of its Subsidiaries. For purposes of determining compliance with any U.S. dollar-denominated restriction (including, without limitation, those set forth in any definition) on the amount or

incurrence of any Indebtedness, the U.S. dollar-equivalent amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; provided that if such Indebtedness is incurred to Refinance other Indebtedness denominated in a foreign currency, and such Refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such Refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount (or, if incurred with original issue discount, the issue price) of such Refinancing Indebtedness does not exceed the principal amount (or if incurred with original issue discount, the accreted value) of such Indebtedness being Refinanced plus any additional Indebtedness incurred to pay interest or dividends thereon plus the amount of any premium (including tender premiums), defeasance costs and any fees and expenses incurred in connection with the incurrence of such Refinancing Indebtedness; and provided, further, notwithstanding anything to the contrary set forth in the "—Limitation on Incurrence of Additional Indebtedness" covenant, the "Maintenance of Total Unencumbered Assets" covenant, the definition of "Permitted Indebtedness" or elsewhere in the Indenture, the maximum amount of Indebtedness that the Company and its Subsidiaries may incur pursuant to such "—Limitation on Incurrence of Additional Indebtedness" covenant and such definition shall not be deemed to be exceeded, nor shall the Company be deemed to have breached its obligations under such "—Maintenance of Total Unencumbered Assets" covenant, solely as a result of fluctuations in currency exchange rates. Subject to the foregoing, the principal amount of any Indebtedness incurred to Refinance other Indebtedness, if incurred in a different currency from the Indebtedness being Refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness and Indebtedness being Refinanced are denominated that is in effect on the date of such Refinancing. Unsecured Indebtedness shall not be treated as subordinated or junior to secured Indebtedness merely because such Indebtedness is unsecured. For purposes of clarity, it is understood and agreed that, anything in the Indenture to the contrary notwithstanding, the term "Indebtedness" shall not include any commitment to make loans, advances or other Investments, or to purchase Investments, Persons or other securities or assets.

"Independent Financial Advisor" means any accounting firm, investment advisory firm, valuation firm, consulting firm, appraisal firm, investment bank, bank, trust company or similar entity of recognized standing selected by the Company from time to time.

"Indenture" means the Indenture dated as of the Issue Date between the Company and the Trustee relating to the Notes, as amended or supplemented from time to time.

"Infrastructure Lending Business Acquisition Credit Agreement" means the Credit Agreement dated as of September 19, 2018 among SPT Infrastructure Finance Sub-1, LLC, SPT Infrastructure Finance Sub-2, Ltd. and SPT Infrastructure Finance Sub-3, LLC, as borrowers, SPT Infrastructure Finance Holdings, LLC, as pledgor, MUFG Bank, Ltd., as administrative agent, the lenders party thereto from time to time and the other parties thereto from time to time, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft

facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Insolvency Event" means, with respect to any Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises with respect to such Person or any part of its assets or property in an involuntary case under any applicable Insolvency Law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any part of its assets or property, or ordering the winding-up or liquidation of such Person's affairs, (b) the commencement by such Person of a voluntary case under any applicable Insolvency Law, (c) the consent by such Person to the entry of an order for relief in an involuntary case under any applicable Insolvency Law, (d) the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any part of its assets or property, (e) the making by such Person of any general assignment for the benefit of creditors, (f) the admission in a legal proceeding of the inability of such Person to pay its debts generally as they become due, (g) the failure by such Person generally to pay its debts as they become due, or (h) the taking of any action by such Person in furtherance of any of the foregoing.

"Insolvency Laws" means Title 11 of the United States Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, suspension of payments and similar debtor relief laws from time to time in effect affecting the rights of creditors generally.

"Intercompany Indebtedness" means Indebtedness of the Company or any of its Subsidiaries owing to the Company or any of its Subsidiaries.

"interest" means, with respect to any Note, interest payable on such Note.

"Interest Rate Agreement" means any interest rate swap, cap, floor, collar, hedge or similar agreements and any other agreement or arrangement designed to manage interest rates or interest rate risk.

"Investment" means any direct or indirect loan, loan origination or other extension of credit (including, without limitation, a guarantee), any capital contribution (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), any Capital Stock, bonds, notes, debentures or other securities or evidences of Indebtedness, any servicing rights, any real property or interests in real property (including, without limitation, improvements, fixtures and accessions thereto and ground leases), and any other investment assets (whether tangible or intangible). "Investment" shall exclude extensions of trade credit in the ordinary course of business, but, unless otherwise expressly stated or the context otherwise requires, shall include acquisitions of any of the foregoing or of any Person, whether by merger, consolidation, acquisition of Capital Stock or assets or otherwise.

"Investment Company Act" means the Investment Company Act of 1940, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P.

"Issue Date" means , 2020.

"Issue Date Committed Amount" means the sum of:

(1) the sum of the maximum aggregate principal amount of revolving credit and term loan borrowings that would have been available under the Existing Credit Agreements on the Issue Date, assuming that no borrowings or other Indebtedness was incurred or outstanding under any such agreements on the Issue Date, that any rights or options of the applicable borrower or borrowers to increase, or to request an increase in, the maximum aggregate principal amount of available borrowings thereunder (including, without limitation, pursuant to any committed or uncommitted accordion provisions) had been exercised or made, as applicable, that all such requests had been granted and that all such increases and requested increases were in effect on the Issue Date, and that the maximum aggregate principal amount of borrowings under such agreements (giving effect to all such increases and requested increases) could be borrowed on the Issue Date, and

(2) the sum of the maximum aggregate principal amount of revolving credit and term loan borrowings available under all Subsequent Credit Agreements, if any, as of the respective dates they are first entered into by the Company and/or any of its Subsidiaries, assuming, in the case of each Subsequent Credit Agreement, that no borrowings or other Indebtedness is incurred or outstanding under such agreement on the date it is first entered into by the Company and/or any of its Subsidiaries, that any rights or options of the applicable borrower or borrowers to increase, or to request an increase in, the maximum aggregate principal amount of available borrowings thereunder (including, without limitation, pursuant to any committed or uncommitted accordion provisions) had been exercised or made, as applicable, that all such requests had been granted and that all such increases and requested increases were in effect on such date, and that the maximum aggregate principal amount of borrowings under such agreement (giving effect to all such increases and requested increases) could be borrowed on such date, and

(3) the sum of the maximum aggregate amount of financing that would have been available to the applicable Repo Sellers from the applicable Repo Buyers under the Existing Repurchase Agreements on the Issue Date, assuming that no financing was extended or other Indebtedness was incurred or outstanding under any such agreements on the Issue Date, that any rights or options of the applicable Repo Seller or Repo Sellers to increase, or to request an increase in, the maximum aggregate amount of available financing thereunder (including, without limitation, pursuant to any committed or uncommitted accordion provisions) had been exercised or made, as applicable, that all such requests had been granted and that all such increases and requested increases were in effect on the Issue Date, and that the maximum aggregate amount of financing under such agreements (giving effect to all such increases and requested increases) could be extended to the Repo Sellers on the Issue Date, and

(4) the sum of the maximum aggregate amount of financing available to the applicable Repo Seller or Repo Sellers, as the case may be, from the applicable Repo Buyer or Repo Buyers, as the case may be, under all Subsequent Repurchase Agreements, if any, as of the respective dates they are first entered into by the Company and/or any of its Subsidiaries, assuming, in the case of each Subsequent Repurchase Agreement, that no financing is extended or other Indebtedness is incurred or outstanding under such agreement on the date it is first entered into by the Company and/or any of its Subsidiaries, that any rights or options of the applicable Repo Seller or Repo Sellers to increase, or to request an increase in, the maximum aggregate amount of available financing thereunder (including, without limitation, pursuant to any committed or uncommitted accordion provisions) had been exercised or made, as applicable, that all such requests had been granted and that all such increases and requested increases were in effect on such date, and that the maximum aggregate amount of financing under such agreement (giving effect to all such increases and requested increases) could be extended to the Repo Seller or Repo Sellers on such date,

in each case referred to in clauses (1), (2), (3) and (4) above assuming the performance of and compliance with all covenants and agreements and the truth and accuracy of all representations

and warranties in such agreements, and further assuming that all conditions to borrowing or financing, all conditions to increases or requested increases in the maximum aggregate principal amount of available borrowings or the maximum aggregate amount of available financing, all borrowing base or other collateral requirements, and all other applicable terms, conditions and other provisions of such agreements had been satisfied, performed and complied with as and when required; provided that, for purposes of clause (3) of this sentence, if any Existing Repurchase Agreement does not specify the maximum amount of financing available thereunder, then such maximum amount shall be deemed to be the aggregate amount of financing outstanding under such agreement on the Issue Date; and, for purposes of clause (4) of this sentence, if any Subsequent Repurchase Agreement does not specify the maximum amount of financing available thereunder, then such maximum amount shall be deemed to be the largest aggregate amount of financing outstanding under such agreement on any day during the period beginning on and including the date such Subsequent Repurchase Agreement is first entered into by the Company and/or any of its Subsidiaries and ending on and including the 90th day thereafter; and provided, further, that any increase in the Issue Date Committed Amount resulting from the Company or any of its Subsidiaries entering into a Subsequent Credit Agreement or Subsequent Repurchase Agreement as contemplated by clause (2) or (4) above shall become effective as of the date of such agreement and, in the event that any such Subsequent Credit Agreement or Subsequent Repurchase Agreement replaces or refinances, in whole or in part, a revolving credit agreement, term loan agreement, other loan or credit agreement or Repurchase Agreement that is included in the computation of the Issue Date Committed Amount as of the date such Subsequent Credit Agreement or Subsequent Repurchase Agreement, as the case may be, is first entered into by the Company and/or any of its Subsidiaries, then only the excess, if any, of (x) the aggregate principal amount of borrowings or the aggregate amount of financing, as applicable, that would otherwise be added to the Issue Date Committed Amount in respect of such Subsequent Credit Agreement or Subsequent Repurchase Agreement (in each case calculated as set forth above) over (y) the aggregate principal amount of borrowings or the aggregate amount of financing, as the case may be, that is included in the Issue Date Committed Amount as of such date in respect of the agreement (or portion thereof) being so replaced or refinanced shall be included in the computation of the Issue Date Committed Amount. As used in the immediately preceding sentence, the terms Repo Sellers and Repo Buyers have the respective meanings set forth in the definition of Repurchase Agreement. The Issue Date Committed Amount shall be calculated in good faith by the Company (whose calculation shall be binding on the Holders of the Notes for all purposes of the Indenture and the Notes absent manifest error).

"Lien" means any lien, mortgage, deed of trust, pledge, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof and any agreement to give any security interest).

"Long Derivative Instrument" means a Derivative Instrument (i) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References and/or (ii) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

"Manager" means, so long as the Company is externally managed, any Person serving as the Company's external manager which, on the Issue Date, is SPT Management, LLC, a Delaware limited liability company.

"Moody's" means Moody's Investors Service, Inc., and any successor to the credit rating business thereof.

"Mortgage Loans Warehouse Facility Agreement" means the Business Loan and Security Agreement dated as of September 25, 2020 among SMRF Trust V and SMRF Trust V-A, as borrowers,

and Western Alliance Bank, as lender, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Net Cash Proceeds," with respect to any issuance or sale of Capital Stock or incurrence of Indebtedness, means the cash proceeds of such issuance, sale or incurrence, as the case may be, net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, discounts and commissions and brokerage, consultant and other fees and expenses incurred in connection with such issuance, sale or incurrence, as the case may be, and net of taxes paid or payable as a result thereof.

"Net Short" means, with respect to a Holder or beneficial owner of a Note, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of the (x) the value of its Notes plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 ISDA Credit Derivatives Definitions) to have occurred with respect to the Company or any Guarantor immediately prior to such date of determination.

"Non-Guarantor Subsidiary" means any Subsidiary of the Company that is not a Guarantor of the Notes.

"Non-Recourse Indebtedness" means any Indebtedness of the Company or any of its Subsidiaries:

(1) that is advanced to finance the acquisition of Securitization Assets or other assets and secured only by the assets to which such Indebtedness relates (or by a pledge of equity in the Securitization Entity or Subsidiary of the Company owning such assets) without recourse to the Company or any of its Subsidiaries (excluding any such Subsidiary that is a Securitization Entity or that owns no significant assets (as determined in good faith by the Company) other than its interest in a Securitization Entity and, in each case, is a borrower, guarantor, pledgor or other obligor of such Indebtedness) (other than recourse pursuant to Standard Recourse Undertakings, unless, until and for so long as (but solely for purposes of clause (4) of the first paragraph under the caption "—Events of Default") a claim for payment has been made under any such Standard Recourse Undertakings (which has not been satisfied or waived) at which time the obligations with respect to any such Standard Recourse Undertakings shall (solely for purposes of such clause (4)) not be considered Non-Recourse Indebtedness to the extent, and only to the extent, that such claim is a claim for the payment of Indebtedness for borrowed money of the Company or any Subsidiary of the Company and is also a liability (for GAAP purposes) of the Company or such Subsidiary, as applicable (excluding any such Subsidiary that is a Securitization Entity or that owns no significant

assets (as determined in good faith by the Company) other than its interest in a Securitization Entity and, in each case, is a borrower, guarantor, pledgor or other obligor of such Indebtedness));

(2) that is advanced to any Subsidiaries or group of Subsidiaries of the Company formed for the sole purpose of acquiring or holding Securitization Assets or other assets (directly or indirectly) against which a loan is obtained that is made without recourse to, and with no cross-collateralization against, any other assets of the Company or any of its Subsidiaries (excluding any such Subsidiary that is a Securitization Entity or that owns no significant assets (as determined in good faith by the Company) other than its interest in a Securitization Entity and, in each case, is a borrower, guarantor, pledgor or other obligor of such Indebtedness) (other than recourse pursuant to Standard Recourse Undertakings, unless, until and for so long as (but solely for purposes of clause (4) of the first paragraph under the caption "—Events of Default") a claim for payment has been made under any such Standard Recourse Undertakings (which has not been satisfied or waived) at which time the obligations with respect to any such Standard Recourse Undertakings shall (solely for purposes of such clause (4)) not be considered Non-Recourse Indebtedness to the extent, and only to the extent, that such claim is a claim for the payment of Indebtedness for borrowed money of the Company or any Subsidiary of the Company and is also a liability (for GAAP purposes) of the Company or such Subsidiary, as applicable (excluding any such Subsidiary that is a Securitization Entity or that owns no significant assets (as determined in good faith by the Company) other than its interest in a Securitization Entity and, in each case, is a borrower, guarantor, pledgor or other obligor of such Indebtedness));

(3) that is advanced to finance the acquisition of real property and secured by only the real property (and any accessions, improvements and fixtures thereto) to which such Indebtedness relates (or by a pledge of equity in the Securitization Entity or Subsidiary of the Company owning such assets) without recourse to the Company or any of its Subsidiaries (excluding any such Subsidiary that is a Securitization Entity or that owns no significant assets (as determined in good faith by the Company) other than its interest in a Securitization Entity and, in each case, is a borrower, guarantor, pledgor or other obligor of such Indebtedness) (other than recourse pursuant to Standard Recourse Undertakings, unless, until and for so long as (but solely for purposes of clause (4) of the first paragraph under the caption "—Events of Default") a claim for payment has been made under any such Standard Recourse Undertakings (which has not been satisfied or waived) at which time the obligations with respect to any such Standard Recourse Undertakings shall (solely for purposes of such clause (4)) not be considered Non-Recourse Indebtedness to the extent, and only to the extent, that such claim is a claim for the payment of Indebtedness for borrowed money of the Company or any Subsidiary of the Company and is also a liability (for GAAP purposes) of the Company or such Subsidiary, as applicable (excluding any such Subsidiary that is a Securitization Entity or that owns no significant assets (as determined in good faith by the Company) other than its interest in a Securitization Entity and, in each case, is a borrower, guarantor, pledgor or other obligor of such Indebtedness));

(4) in respect of which recourse for payment is contractually limited to specific assets (including, without limitation, intangible assets) of the Company or any of its Subsidiaries encumbered by a Lien securing such Indebtedness (other than recourse pursuant to Standard Recourse Undertakings, unless, until and for so long as (but solely for purposes of clause (4) of the first paragraph under the caption "—Events of Default") a claim for payment has been made under any such Standard Recourse Undertakings (which has not been satisfied or waived) at which time the obligation with respect to any such Standard Recourse Undertakings shall (solely for purposes of such clause (4)) not be considered Non-Recourse Indebtedness to the extent, and only to the extent, that such claim is a claim for the payment of Indebtedness for borrowed money of the Company or any Subsidiary of the Company and is also a liability (for GAAP purposes) of the Company or such Subsidiary, as applicable (excluding any such Subsidiary that is a Securitization Entity or that

owns no significant assets (as determined in good faith by the Company) other than its interest in a Securitization Entity and, in each case, is a borrower, guarantor, pledgor or other obligor of such Indebtedness)); or

(5) customary completion or budget guarantees provided to lenders in connection with any of the foregoing clauses (1) through (4) in the ordinary course of business.

For the purposes of clarity, it is understood and agreed that, solely for purposes of clause (4) of the first paragraph under the caption "—Events of Default," if the payment of any Indebtedness for borrowed money of the Company or any of its Subsidiaries that would otherwise constitute Non-Recourse Indebtedness is guaranteed in part but not in whole by the Company or a Subsidiary of the Company in such manner that the portion of such Indebtedness so guaranteed no longer constitutes Non-Recourse Indebtedness, then (solely for the purposes of such clause (4)) the portion of the Indebtedness so guaranteed shall be deemed to constitute recourse Indebtedness and the remainder of such Indebtedness shall be deemed to constitute Non-Recourse Indebtedness.

"Notes" means the Company's % Senior Notes due 2023 (including, for the avoidance of doubt, any Additional Notes) issued under the Indenture, all of which shall be treated as a single class of securities for all purposes (including voting) under the Indenture, as the Notes may be amended or supplemented from time to time.

"Offering Memorandum" means the Company's offering memorandum dated October , 2020 relating to the Notes, as the same may have been or may be amended or supplemented from time to time.

"Officer" means, with respect to any Person, (1) the Chairman, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Investment Officer, the Chief Financial Officer, the Chief Accounting Officer, the Controller, any Vice President (whether or not the title "Vice President" is preceded or followed by any other title such as "Senior," "Executive" or otherwise), any Managing Director, the Treasurer, any Assistant Treasurer, the Secretary and any Assistant Secretary (a) of such Person or (b) if such Person is a limited or general partnership or limited liability company that does not have officers, of any direct or indirect general partner or managing member, as the case may be, of such Person, and (2) any other individual designated as an "Officer" by the Board of Directors of such Person (or, if applicable, by the Board of Directors of any general partner or managing member referred to in clause (1)(b)).

"Officers' Certificate" means, with respect to any Person, a certificate signed by two Officers of such Person.

"Organizational Documents" means, with respect to any entity, its charter and bylaws, its limited or general partnership agreement and certificate of limited or general partnership, its limited liability company agreement, operating agreement or other similar agreement and its limited liability company certificate, its trust agreement, or any similar organizational documents of such entity, in each case as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Performance References" has the meaning set forth in the definition of "Derivative Instrument."

"Permitted Indebtedness" means, without duplication, each of the following:

(1) (a) Notes in an aggregate principal amount not to exceed the aggregate principal amount thereof issued on the Issue Date and (b) the Existing Senior Notes and the Existing Convertible Senior Notes, in each case referred to in this clause (b) in an aggregate principal amount not to exceed the aggregate principal amount thereof outstanding on the Issue Date;

(2) [omitted intentionally];

(3) (a) Indebtedness of the Company or any of its Subsidiaries under the Existing Credit Agreements or the Existing Repurchase Agreements, in each case to the extent such Indebtedness is incurred or outstanding on the Issue Date and (b) Indebtedness of the Company or any of its Subsidiaries incurred after the Issue Date under any Credit Facilities (in each of the foregoing cases including the issuance and creation of letters of credit, bankers' acceptances and similar instruments thereunder) if, immediately after giving effect to the incurrence of such Indebtedness and the receipt and application of the proceeds therefrom, the aggregate principal amount of Indebtedness of the Company and its consolidated Subsidiaries, determined on a consolidated basis under GAAP, outstanding under this clause (3) shall not exceed the Issue Date Committed Amount (Indebtedness of the type described in subclause (a) of this clause (3) that is outstanding on the Issue Date shall be deemed to have been incurred under this clause (3) on the Issue Date);

(4) Indebtedness of the Company or any of its Subsidiaries incurred or outstanding on the Issue Date, other than Indebtedness described in clauses (1) or (3) above that is incurred or outstanding on the Issue Date;

(5) Indebtedness of the Company or any of its Subsidiaries under Commodity Agreements, Currency Agreements and Interest Rate Agreements incurred or entered into for hedging purposes and not for speculative purposes;

(6) Intercompany Indebtedness; provided, however, that:

(a) if the Company is the obligor on Indebtedness owing to and held by a Non-Guarantor Subsidiary, such Indebtedness is expressly subordinated in right of payment to the Notes;

(b) if a Guarantor is the obligor on Indebtedness owing to and held by a Non-Guarantor Subsidiary, such Indebtedness is expressly subordinated in right of payment to such Guarantor's Guarantee of the Notes; and

(c) (i) any subsequent issuance or transfer of Capital Stock or other event which results in any such Indebtedness being held by a Person other than the Company or a Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person other than the Company or a Subsidiary of the Company, shall in each case referred to in clause (i) and (ii) immediately above be deemed to constitute an incurrence of such Indebtedness by the Company or such Subsidiary not permitted by this clause (6).

(7) Indebtedness of the Company or any of its Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within ten Business Days of incurrence;

(8) (x) Indebtedness of the Company or any of its Subsidiaries in respect of banker's acceptances, workers' compensation claims, surety, performance, bid, customs, stay, appeal, tax or similar bonds, security deposits, performance or completion guarantees and payment obligations in connection with self-insurance or similar obligations provided or obtained by the Company or any Subsidiary of the Company in the ordinary course of business and (y) Indebtedness of the Company or any of its Subsidiaries owed to (including in respect of letters of credit for the benefit of) any Person in connection with workers' compensation, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations, taxes or contributions for social security, wages or unemployment, health, disability or other employee benefits, or property, casualty or liability insurance provided to the Company or any of its Subsidiaries pursuant to reimbursement or indemnification obligations of such Person, in each case incurred in the ordinary course of business;

(9) Refinancing Indebtedness of the Company or any of its Subsidiaries;

(10) Indebtedness of the Company and its Subsidiaries if, immediately after giving effect to the incurrence of any such Indebtedness and the receipt and application of the proceeds therefrom, the aggregate principal amount of Indebtedness of the Company and its consolidated Subsidiaries, determined on a consolidated basis under GAAP, outstanding under this clause (10) shall not exceed the greater of (x) $700 million and (y) 4% of Total Assets at such time;

(11) Indebtedness of any Person (a) outstanding on the date of any acquisition of Investments or other securities or assets from such Person, including through the acquisition of a Person that becomes a Subsidiary of the Company or is acquired by, or merged or consolidated with or into, the Company or any Subsidiary of the Company, or that is assumed by the Company or any of its Subsidiaries in connection with any such acquisition (other than Indebtedness incurred by such Person in connection with, or in contemplation of, such acquisition, merger or consolidation) or (b) incurred by the Company or any of its Subsidiaries to provide all or any portion of the funds utilized to acquire, or to consummate the transaction or series of related transactions in connection with or in contemplation of any acquisition of, any Investments or other securities or assets, including through the acquisition of a Person that becomes a Subsidiary of the Company or is acquired by, or merged or consolidated with or into, the Company or any Subsidiary of the Company, provided, however, that immediately after giving effect to the incurrence of such Indebtedness pursuant to this clause (11) and, if applicable, the repayment, repurchase, defeasance, redemption, Refinancing or other discharge of any other Indebtedness in connection with such acquisition, merger or consolidation and the other pro forma adjustments, if applicable, set forth in the definition of "Consolidated Fixed Charge Coverage Ratio" on a pro forma basis, either (i) the Company would have been able to incur at least $1.00 of additional Indebtedness pursuant to the second paragraph of the "—Limitation on Incurrence of Additional Indebtedness" covenant or (ii) the Consolidated Fixed Charge Coverage Ratio of the Company would have been greater than or equal to the Consolidated Fixed Charge Coverage Ratio immediately prior to such transaction;

(12) Indebtedness of the Company or any of its Subsidiaries arising from agreements of the Company or a Subsidiary of the Company providing for indemnification, adjustment of purchase price, earn-outs or similar obligations, in each case incurred or assumed in connection with an investment in or the acquisition or disposition of any business, Investments or other securities or assets of the Company or any business, Investments, other securities or assets or Capital Stock of a Subsidiary of the Company, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, Investments, assets or Capital Stock for the purpose of financing such acquisition;

(13) Indebtedness incurred by the Company or any Subsidiary of the Company in connection with (i) insurance premium financing arrangements, (ii) deferred compensation payable to directors, officers, members of management, employees or consultants of the Company or any Subsidiary of the Company or of any Manager or any Subsidiary of any Manager, (iii) contingent obligations arising under indemnity agreements to title insurance companies to cause such title insurers to issue title insurance policies in the ordinary course of business with respect to real property of the Company or any Subsidiary of the Company, (iv) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law and (v) obligations, contingent or otherwise, for the payment of money under any non-compete, consulting or similar arrangements entered into with the seller of a business or any other similar arrangements providing for the deferred payment of the purchase price for an Investment or other securities or assets or any other acquisition;

(14) Indebtedness of the Company or any of its Subsidiaries owed to banks and other financial institutions incurred in the ordinary course of business of the Company and its Subsidiaries in

connection with Cash Management Obligations and other ordinary banking arrangements to provide treasury services or to manage cash balances of the Company and its Subsidiaries;

(15) Indebtedness consisting of promissory notes issued by the Company or any Subsidiary of the Company to future, present or former directors, officers, employees or consultants of the Company or any Manager or any of their respective Subsidiaries or their respective assigns, estates, heirs, family members, spouses, former spouses, domestic partners or former domestic partners to finance the purchase, redemption or other acquisition, cancellation or retirement of Capital Stock, or options, warrants, equity appreciation rights or other rights to purchase or acquire Capital Stock or other equity-based awards, of the Company or any Subsidiary of the Company;

(16) Indebtedness of the Company or any of its Subsidiaries to the extent the Net Cash Proceeds from such Indebtedness are, within 60 days after such Indebtedness is incurred:

(i) used to purchase any or all of the Notes tendered in a Change of Control Offer made as a result of a Change of Control Triggering Event;

(ii) used to redeem any or all of the Notes pursuant to the Indenture; or

(iii) deposited to effect Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the Notes pursuant to the Indenture;

(17) [Intentionally Omitted]; and

(18) guarantees of Indebtedness of the Company or any Subsidiary of the Company (including, without limitation, Guarantees, if any, of the Notes) by the Company or any Subsidiary of the Company, provided that such Indebtedness was incurred or outstanding on the Issue Date or was permitted (or not prohibited) to be incurred by the second paragraph of the "—Limitation on Incurrence of Additional Indebtedness" covenant or any other provision of this definition of "Permitted Indebtedness".

For purposes of determining compliance with the "—Limitation on Incurrence of Additional Indebtedness" and the "—Merger, Consolidation and Sale of Assets" covenants, and for purposes of the foregoing provisions of the definition of "Permitted Indebtedness" and the definition of "Refinancing Indebtedness," in the event that an item of Indebtedness (including Indebtedness incurred or outstanding on the Issue Date) or portion thereof meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (1) through (18) above or is entitled to be incurred pursuant to the second paragraph of the "—Limitation on Incurrence of Additional Indebtedness" covenant, the Company shall, in its sole discretion, classify (and may later reclassify) such item of Indebtedness (or any portion thereof) in any manner that complies with such "—Limitation on Incurrence of Additional Indebtedness" covenant (including, without limitation, the second paragraph thereof) or with the foregoing provisions of the definition of "Permitted Indebtedness" (it being understood, for purposes of clarity, that the Company will be entitled to divide and classify, and subsequently re-divide and reclassify, an item of Indebtedness into or out of one or more of the categories of Indebtedness referred to in this sentence). In determining compliance with the amount of Indebtedness permitted or which may be incurred under, or classified or reclassified to, clauses (3) and (10) above, the aggregate principal amount of Indebtedness outstanding under any such clause and, in the case of clause (10), the amount of Total Assets of the Company and its consolidated Subsidiaries shall be determined after giving effect to the incurrence of the applicable Indebtedness under, or the classification or reclassification of the applicable Indebtedness into or out of, such clause, as the case may be, and, if applicable, the receipt and application of the proceeds therefrom (including, without limitation, to repay other Indebtedness and, in the case of clause (10), to acquire Investments, Persons, or other securities or assets), and the maximum amount of Indebtedness that the Company and its Subsidiaries may incur pursuant to such clause (10) shall not be deemed to be exceeded solely as a result of a

subsequent decline in the amount of Total Assets of the Company. Accrual of interest, accretion or amortization of original issue discount, payment of interest on any Indebtedness in the form of additional Indebtedness with substantially the same terms, and the accrual, accumulation or payment of dividends on Disqualified Capital Stock in the form of additional shares of the same class or series of Disqualified Capital Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Capital Stock for purposes of the "—Limitation on Incurrence of Additional Indebtedness" or the "—Merger, Consolidation and Sale of Assets" covenants or the foregoing provisions of the definition of "Permitted Indebtedness."

In addition, for purposes of determining compliance with the "—Limitation on Incurrence of Additional Indebtedness" and the "—Merger, Consolidation and Sale of Assets" covenants, and for purposes of the foregoing provisions of the definition of "Permitted Indebtedness" and the definition of "Refinancing Indebtedness," in the event that the Company or any Subsidiary enters into or increases commitments under a revolving credit facility or enters into any commitment to incur Indebtedness, the incurrence of all or any portion of the Indebtedness that may be incurred under such revolving credit facility (or increased commitment) or commitment (including issuance and creation of letters of credit and bankers' acceptances thereunder) (any such entire or partial amount of Indebtedness until the Company's election under this paragraph is revoked, the"Reserved Debt Amount") will, at the Company's option, either (a) be determined on the date of such entry into, or increase in commitments under, such revolving credit facility (assuming that the Reserved Debt Amount has been borrowed as of such date) or the date of entry into such commitment to incur Indebtedness and, if any ratio, test or other provision of the Indenture is satisfied with respect thereto at such time, any borrowing or reborrowing thereunder (and the issuance and creation of letters of credit and bankers' acceptances thereunder) will be permitted under the Indenture irrespective of such ratio, test or other provision of the Indenture at the time of any borrowing or reborrowing (or issuance or creation of letters of credit or bankers' acceptances thereunder) or (b) be determined on the date such amount is borrowed pursuant to any such revolving credit facility or the date such Indebtedness is incurred, as the case may be, and in each case, the Company may revoke such determination at any time and from time to time;

"Person" means an individual, limited or general partnership, limited liability company, corporation, unincorporated organization, trust, association, joint-stock company or joint venture, or a government or any agency or political subdivision thereof or any other entity.

"Preferred Stock" of any Person means any Capital Stock of such Person that has preferential rights over any other Capital Stock of such Person with respect to dividends or redemptions or upon liquidation, dissolution or winding-up.

"Qualified Equity Offering" means any private or public issuance or sale by the Company of its Capital Stock (other than Disqualified Capital Stock) for cash. Notwithstanding the foregoing, the term "Qualified Equity Offering" shall not include:

(1) any issuance and sale registered on Form S-4 or Form S-8;

(2) any issuance and sale to any of the Company's Subsidiaries or to any employee stock ownership plan or trust established by the Company or any of its Subsidiaries for the benefit of their respective employees; or

(3) any issuance of Capital Stock in connection with a transaction that constitutes a Change of Control.

"Rating Agencies" means (1) each of Moody's and S&P; and (2) if either Moody's or S&P ceases to rate the Notes or fails to make a rating of the Notes publicly available for reasons outside of the Company's control, a "nationally recognized statistical rating organization" as such term is defined

in Section 3(a)(62) of the Exchange Act, selected by the Company as a replacement agency for Moody's or S&P, or either of them, as the case may be.

"Rating Decline Period" means the 60-day period (which 60-day period shall be extended as long as the credit rating on the Notes is under publicly announced consideration for a possible downgrade by either of the Rating Agencies) after the earliest of (a) the occurrence of a Change of Control, (b) the first public notice of the occurrence of such Change of Control and (c) the first public notice of the Company's intention to effect such Change of Control.

"Rating Event" means, with respect to any Change of Control, (a) the credit rating on the Notes is lowered by one or more gradations (including gradations within ratings categories as well as between categories but excluding, for the avoidance of doubt, changes in ratings outlook) by both of the Rating Agencies during the Rating Decline Period relating to such Change of Control and each such Rating Agency shall have put forth a public statement to the effect that such downgrade is attributable in whole or in part to such Change of Control and (b) immediately after giving effect to the reduction in the credit rating on the Notes by both Rating Agencies as described in clause (a), the Notes do not have an Investment Grade Rating from either Rating Agency.

"Redemption Date" means a date fixed for redemption of Notes as provided pursuant to the Indenture and the Notes.

"Refinance" means, in respect of any security or Indebtedness, to refinance, extend, renew, replace or refund (including pursuant to any defeasance, covenant defeasance or satisfaction, discharge or similar mechanism), or to issue a security or incur new Indebtedness in exchange or replacement for such security or Indebtedness in whole or in part. "Refinanced" and "Refinancing" shall have correlative meanings.

"Refinancing Indebtedness" means Indebtedness of the Company or any Subsidiary of the Company that Refinances any other Indebtedness of the Company or any Subsidiary of the Company incurred or outstanding in accordance with, or not in violation of, the "—Limitation on Incurrence of Additional Indebtedness" covenant (other than Indebtedness outstanding under clauses (3), (5) through (8), (10), (12) through (15), and (18) of the definition of Permitted Indebtedness), including without limitation Indebtedness that Refinances Refinancing Indebtedness; provided, however, that:

(1) such Refinancing Indebtedness has an aggregate principal amount (or if incurred with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or, if incurred with original issue discount, the aggregate accreted value) of the Indebtedness being Refinanced plus, without duplication, any additional Indebtedness incurred to pay interest or dividends thereon and the amount of any premium (including tender premium), defeasance costs and any fees and expenses incurred in connection with such Refinancing;

(2) such Refinancing Indebtedness has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being Refinanced at such time; and

(3) (a) if the final stated maturity of the Indebtedness being Refinanced is earlier than the final stated maturity of the Notes, the Refinancing Indebtedness has a final stated maturity no earlier than the final stated maturity of the Indebtedness being Refinanced or (b) if the final stated maturity of the Indebtedness being Refinanced is on or later than the final stated maturity of the Notes, the Refinancing Indebtedness has a final stated maturity at least 91 days later than the final stated maturity of the Notes;

provided that if such Indebtedness being Refinanced is subordinate to the Notes in right of payment pursuant to the terms of any instrument or agreement evidencing such Indebtedness

being Refinanced or under which such Indebtedness shall have been incurred, then such Refinancing Indebtedness shall be subordinate to the Notes at least to the same extent as provided in the documentation governing the Indebtedness being Refinanced. For purposes of clarity, it is understood and agreed that (x) whether any particular item of Indebtedness is outstanding under any of the foregoing clauses of the definition of Permitted Indebtedness shall be determined after giving effect to any classification or reclassification of Indebtedness by the Company pursuant to the paragraph immediately following the definition of Permitted Indebtedness, (y) if the terms of any Indebtedness being Refinanced provide that the final stated maturity thereof may be extended, whether at the option of the borrower or otherwise, the final stated maturity of such Indebtedness shall be determined, for purposes of this definition, without giving effect to any such extension unless such extension is in effect at the time of such Refinancing and (z) the conditions set forth in clauses (2) and (3) of this definition shall not be applicable with respect to any Disqualified Capital Stock that does not have a final stated maturity. For purposes of this definition, if all of the outstanding shares of any class or series of Disqualified Capital Stock by their terms mature or are mandatorily redeemable (in whole and not in part) on a fixed and determinable date, and if such maturity or mandatory redemption date is not subject to or contingent upon the occurrence of any event or condition, then such maturity date or mandatory redemption date, as the case may be, shall be deemed to be the final stated maturity of such Disqualified Capital Stock for purposes of this definition and the definition of Weighted Average Life to Maturity.

"Repurchase Agreement" means an agreement between the Company and/or any of its Subsidiaries, as seller (in any such case, the "Repo Seller"), and one or more banks, other financial institutions and/or other investors, lenders or other Persons, as buyer (in any such case, the "Repo Buyer"), and any other parties thereto, under which the Company and/or such Subsidiary or Subsidiaries, as the case may be, are permitted to finance the origination or acquisition of loans, Investments, Capital Stock, other securities, servicing rights and/or any other tangible or intangible property or assets and interests in any of the foregoing (collectively, "Applicable Assets") by means of repurchase transactions pursuant to which the Repo Seller sells, on one or more occasions, Applicable Assets to the Repo Buyer with an obligation of the Repo Seller to repurchase such Applicable Assets on a date or dates and at a price or prices specified in or pursuant to such agreement, and which may also provide for payment by the Repo Seller of interest, fees, expenses, indemnification payments and other amounts, and any other similar agreement, instrument or arrangement, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents and guarantees), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing), and whether or not with the original or other sellers, buyers, guarantors, agents, lenders, banks, financial institutions, investors or other parties.

"Repurchase Agreement Assets" means any Applicable Assets that are or may be sold by the Company or any of its Subsidiaries pursuant to a Repurchase Agreement.

"Revolving Facility Credit Agreement" means the Revolving Facility Credit Agreement dated as of July 26, 2019 among Starwood Property Mortgage, L.L.C., as borrower, the Company, as parent, JPMorgan Chase Bank, N.A., as administrative agent and swing line lender, the other lenders party thereto from time to time and any other parties thereto from time to time, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents,

guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Screened Affiliate" means any Affiliate of a Holder (i) that makes investment decisions independently from such Holder and any other Affiliate of such Holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such Holder and any other Affiliate of such Holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Company or its Subsidiaries, (iii) whose investment policies are not directed by such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Notes, and (iv) whose investment decisions are not influenced by the investment decisions of such Holder or any other Affiliate of such Holder that is acting in concert with such Holders in connection with its investment in the Notes.

"S&P" means S&P Global Ratings, a division of Standard & Poor's Financial Services LLC or any successor to the credit ratings business thereof.

"SEC" means the U.S. Securities and Exchange Commission or any successor thereto.

"Secured Indebtedness" means any Indebtedness of the Company or any of its Subsidiaries secured by a Lien upon the property of the Company or any of its Subsidiaries. For purposes of clarity, it is understood and agreed that Indebtedness of the Company or any of its Subsidiaries under a Repurchase Agreement constitutes Secured Indebtedness.

"Securities Act" means the Securities Act of 1933, as amended.

"Securitization" means a public or private transfer, sale or financing of servicing advances, mortgage loans, installment contracts, other loans, accounts receivable, real estate assets, mortgage receivables and any other assets capable of being securitized (collectively, "Securitization Assets") by which the Company or any of its Subsidiaries directly or indirectly securitizes a pool of specified Securitization Assets or incurs Non-Recourse Indebtedness secured by specified Securitization Assets, including any such transaction involving the sale of specified Securitization Assets to a Securitization Entity.

"Securitization Asset" has the meaning set forth in the definition of "Securitization."

"Securitization Entity" means (i) any Person established for the purpose of issuing asset-backed or mortgage-backed or mortgage pass-through securities of any kind (including collateralized mortgage obligations and net interest margin securities) or other similar securities; (ii) any special-purpose Subsidiary established for the purpose of selling, depositing or contributing Securitization Assets into a Person described in clause (i) or for the purpose of holding Capital Stock of, or securities issued by, any related Securitization Entity, regardless of whether such special-purpose Subsidiary is an issuer of securities; provided that such special-purpose Subsidiary described in this

clause (ii) is not an obligor with respect to any Indebtedness of the Company or any Guarantor; (iii) any Person established for the purpose of holding Securitization Assets and issuing Non-Recourse Indebtedness secured by such Securitization Assets; (iv) any special purpose Subsidiary formed exclusively for the purpose of satisfying the requirements of Credit Enhancement Agreements (including without limitation, any Subsidiary that is established for the purpose of owning another Securitization Entity and pledging the equity of that other Securitization Entity as security for the Indebtedness of such other Securitization Entity) and regardless of whether such Subsidiary is an issuer of securities, provided that such special-purpose Subsidiary is not an obligor with respect to any Indebtedness of the Company or any Guarantor other than under Credit Enhancement Agreements; and (v) any other Subsidiary which is established for the purpose of (x) acting as sponsor for and organizing and initiating Securitizations or (y) facilitating or entering into a Securitization, in each case that engages in activities reasonably related or incidental thereto and that is not an obligor or guarantor with respect to any Indebtedness of the Company. Whether or not a Person is a Securitization Entity shall be determined in good faith by the Company.

"Securitization Repurchase Obligation" means any obligation of a seller of Securitization Assets in a Securitization to repurchase Securitization Assets arising as a result of a breach of a representation, warranty or covenant or otherwise, including, without limitation, as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

"Senior Officer" means, with respect to any Person, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Investment Officer, the Chief Financial Officer, the Chief Accounting Officer or any Executive Vice President (a) of such Person or (b) if such Person is a limited or general partnership or limited liability company that does not have officers, of any direct or indirect general partner or managing member of such Person.

"Short Derivative Instrument" means a Derivative Instrument (i) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with positive changes to the Performance References and/or (ii) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

"Significant Subsidiary" means, with respect to any Person, any Subsidiary of such Person that is a "significant subsidiary" of such Person within the meaning of Rule 1-02(w) of Regulation S-X promulgated by the SEC (as such Rule is in effect on the Issue Date), with the calculation of whether such Subsidiary is a "significant subsidiary" within the meaning of such Rule to be made in accordance with GAAP.

"Standard Recourse Undertakings" means, with respect to any Securitization or Indebtedness, (a) such representations, warranties, covenants and indemnities which are customarily (as determined by the Company) made by sellers of financial assets or other Securitization Assets, including without limitation, Securitization Repurchase Obligations, and (b) such customary (as determined by the Company) carve-out matters for which the Company or any of its Subsidiaries acts as an indemnitor or guarantor in connection with any such Securitization or Indebtedness, such as fraud, misappropriation and misapplication of funds, misrepresentation, criminal acts, repurchase obligations for breach of representations or warranties, environmental indemnities, Insolvency Events, non-approved transfers and similar undertakings which the Company determines in good faith to constitute standard undertakings customarily provided by sellers of financial assets.

"Sub-5 Infrastructure Financing Credit Agreement" means the Loan Financing and Servicing Agreement dated as of July 16, 2019 among the SPT Infrastructure Finance Sub-5, LLC, SPT

Infrastructure Finance Sub-5 (DT), LLC and SPT Infrastructure Finance Sub-5 (OT), Ltd., as borrowers, the Company, as equityholder, Deutsche Bank AG, New York branch, as facility agent, the lenders party thereto from time to time and the other parties thereto from time to time, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Sub-6 Infrastructure Financing Credit Agreement" means the Credit Agreement dated as of October 18, 2019 among the SPT Infrastructure Finance Sub-6, LLC, SPT Infrastructure Finance Sub-6 (DT), LLC and SPT Infrastructure Finance Sub-6 (OT), Ltd., as borrowers, Bank of America, N.A., as administrative agent, the lenders party thereto from time to time and the other parties thereto from time to time, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Subsidiary" means, with respect to any Person and at any time, any other Person if (a) more than 50% of the total combined voting power of all of such other Person's outstanding Voting Stock is at the time owned, directly or indirectly, by such referent Person and/or one or more other Subsidiaries of such referent Person or (b) the management and policies of such other Person are otherwise controlled (as determined in good faith by such referent Person), directly or indirectly, by such referent Person and/or one or more other Subsidiary of such referent Person. As used in the immediately preceding sentence, the term "controlled" shall have the meaning set forth in the definition of "Affiliate." For purposes of clarity, it is understood and agreed that, anything in the Indenture to the contrary notwithstanding, variable interest entities (within the meaning of GAAP) shall not be deemed to be Subsidiaries of any Person.

"Subsequent Credit Agreement" means any revolving credit agreement, term loan agreement or other loan or credit agreement entered into by the Company and/or any of its Subsidiaries, as borrower or borrowers, as the case may be, after the Issue Date pursuant to a term sheet or commitment letter executed on or prior to the Issue Date by the Company and/or any of its Subsidiaries, on the one hand, and one or more of the lenders or agents under such agreement (or one or more Affiliates of any such lenders or agents), on the other hand (regardless of whether or not the terms of the agreement actually entered into differ from those reflected in such term sheet or commitment letter, as the case may be), together with any and all existing and future documents related to such revolving credit agreement, term loan agreement or other loan or credit agreement (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Subsequent Repurchase Agreement" means any Repurchase Agreement entered into by the Company and/or any of its Subsidiaries after the Issue Date pursuant to a term sheet or commitment letter executed on or prior to the Issue Date by the Company and/or any of its Subsidiaries, on the one hand, and one or more of the other parties to such Repurchase Agreement (or one or more Affiliates of any such other parties), on the other hand (regardless of whether or not the terms of the Repurchase Agreement actually entered into differ from those reflected in such term sheet or commitment letter, as the case may be), together with any and all existing and future documents related to such Repurchase Agreement (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Term Loan Credit Agreement" means the Term Loan Credit Agreement dated as of July 26, 2019 among Starwood Property Mortgage, L.L.C., as borrower, the Company, as parent, JPMorgan

Chase Bank, N.A., as administrative agent, the lenders party thereto from time to time and any other parties thereto from time to time, together with any and all existing and future documents related thereto (including, without limitation, any promissory notes, security agreements, intercreditor agreements, mortgages, other collateral documents, guarantees and letters of credit), in each case as the same may have been or may be amended, restated, amended and restated, supplemented, modified, renewed, extended, refunded, refinanced, restructured or replaced in any manner (whether before, upon or after termination or otherwise and including by means of sales of debt securities to investors or other Persons) in whole or in part from time to time (including successive amendments, restatements, amendments and restatements, supplements, modifications, renewals, extensions, refundings, refinancings, restructurings or replacements of any of the foregoing, including into one or more debt, credit, warehousing, securitization or repurchase facilities or agreements, commercial paper or overdraft facilities or agreements, indentures or other instruments or agreements, and also including by means of sales of debt securities to investors or other Persons) and including any of the foregoing changing the maturity, amount, committed amount or other terms thereof, changing (in whole or in part) revolving credit facilities to term loan facilities and vice versa, and whether or not with the original or other buyers, sellers, borrowers, issuers, guarantors, agents, lenders, financial institutions, brokers, dealers, trustees, investors or other parties.

"Total Assets" means the total assets of the Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP.

"Total Unencumbered Assets" as of any date means the sum of:

(1) those Undepreciated Real Estate Assets not securing any portion of Secured Indebtedness; and

(2) all other assets (but excluding goodwill) of the Company and its Subsidiaries not securing any portion of Secured Indebtedness, determined on a consolidated basis for the Company and its Subsidiaries in accordance with GAAP.

"Transactions" means the offering, and the issuance and sale on the Issue Date, of the Notes, the allocation and application of the proceeds from the issuance and sale of the Notes for the purposes described in the Offering Memorandum under the caption "Use of Proceeds," including, without limitation, the application thereof to the Initial Use of Proceeds, the incurrence or payment of all costs and expenses in connection with entering into, terminating or settling obligations under Interest Rate Agreements relating to any of the foregoing, and the other matters related thereto, and the incurrence or payment of all rating agency fees and other fees and expenses relating to any of the foregoing.

"Undepreciated Real Estate Assets" means, as of any date, the cost (being the original cost to the Company or any of its Subsidiaries plus capital improvements) of real estate assets of the Company and its Subsidiaries on such date, before depreciation and amortization of such real estate assets, determined on a consolidated basis in accordance with GAAP. For the avoidance of doubt, it is understood and agreed that, anything in the foregoing sentence to the contrary notwithstanding, the cost of real estate assets shall include any portion of such cost that may be allocated to intangible assets under GAAP.

"Unsecured Indebtedness" means Indebtedness of the Company or any of its Subsidiaries that is not Secured Indebtedness, determined on a consolidated basis in accordance with GAAP.

"U.S. Government Obligations" means securities that are (a) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America, which, in either case, are not

callable or redeemable at the option of the issuer thereof, and shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depositary receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depositary receipt.

"Voting Stock" means, with respect to any Person, all classes and series of Capital Stock of such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote in the election of the directors, managers or trustees (or other persons performing similar functions), as the case may be, of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or Disqualified Capital Stock as of any date of determination, the number of years obtained by dividing: (1) the sum of the products obtained by multiplying (i) the amount of each then remaining scheduled principal payment of such Indebtedness or scheduled redemption payment or similar scheduled payment with respect to such Disqualified Capital Stock, including payment at final stated maturity, by (ii) the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of such payment by (2) the sum of all such payments. For purposes of clause (1) of the immediately preceding sentence, a payment shall be deemed to be "scheduled" only if such payment is mandatory and not subject to or contingent upon the occurrence of any event or condition and the term "final stated maturity," as applied to any Disqualified Capital Stock, shall have the meaning set forth in the final sentence of the definition of Refinancing Indebtedness.

"Wholly Owned Subsidiary" of any Person means any Subsidiary of such Person of which all the outstanding Voting Stock of such Subsidiary (other than directors' qualifying shares and other than an immaterial amount of Voting Stock required to be owned by other Persons pursuant to applicable law or regulation) is owned by such Person and/or one or more Wholly Owned Subsidiaries of such Person.

The Indenture will provide that references to a "revolving credit facility" and similar references shall be deemed to include, without limitation, any Repurchase Agreement which provides for successive sales and repurchases of securities or other assets or is otherwise intended to provide financing on a revolving basis, and references to "revolving credit Indebtedness" and similar references shall be deemed to include, without limitation, Indebtedness under any such Repurchase Agreement, in each case unless otherwise expressly stated or the context otherwise requires. The Company shall determine in good faith whether or not a Repurchase Agreement constitutes a revolving credit facility.

The Indenture will provide that, notwithstanding anything to the contrary provided in the Indenture, when calculating the availability under any basket or financial ratio under the Indenture in connection with an Acquisition (including for purposes of the "—Limitation on Incurrence of Additional Indebtedness" and the "—Merger, Consolidation and Sale of Assets" covenants, the definition of "Permitted Indebtedness" (including the related definition of "Total Assets") and the definition of "Refinancing Indebtedness"), the date of calculation or determination of such basket or ratio and whether such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any Default or Event of Default)) shall, at the option of the Company, be the date the definitive agreements for such Acquisition is entered into (any such date, the "Acquisition Test Date") and such baskets or ratios (and whether any related requirements or conditions are complied with) shall be calculated or determined on a pro forma basis after giving effect to such Acquisition and the other transactions

to be entered into in connection therewith (including the application of proceeds thereof) as if they occurred on the Acquisition Test Date and if after giving effect to such Acquisition and the other transactions to be entered into in connection therewith (including the application of proceeds thereof) the Company and its Subsidiaries would have been able to undertake such actions and transactions on the Acquisition Test Date in compliance with such basket or ratio (including any related requirements or conditions), such ratio or basket (including any related requirements or conditions) will be deemed complied with (or satisfied) for all purposes; provided that if financial statements prepared on a consolidated basis in accordance with GAAP for a more recently ended fiscal quarter become available, the Company may elect, in its sole discretion, to recalculate or redetermine all such ratios or baskets (including any related requirements or conditions) on the basis of such financial statements, in which case, such date of recalculation or redetermination will thereafter be deemed to be the applicable Acquisition Test Date for purposes of such ratios or baskets (including any related requirements or conditions). For the avoidance of doubt, (x) if any of such baskets or ratios are exceeded as a result of fluctuations in such basket or ratio (including due to fluctuations in Consolidated EBITDA or Total Assets of the Company or the target company) subsequent to such Acquisition Test Date and at or prior to the consummation of the relevant Acquisition, such baskets or ratios will not be deemed to have been exceeded as a result of such fluctuations solely for purposes of determining whether the Acquisition and the related transactions are permitted under the Indenture and (y) such baskets or ratios (including any related requirements or conditions) shall not be tested at the time of consummation of such Acquisition or related transactions; provided that if the Company elects to have such determinations occur at the Acquisition Test Date, any such transactions and actions shall be deemed to have occurred on the Acquisition Test Date and outstanding thereafter for purposes of calculating any baskets or ratios under the Indenture in connection with any action or transaction unrelated to such Acquisition after the Acquisition Test Date and before the consummation of such Acquisition unless and until such Acquisition has been terminated or abandoned, as determined by the Company, prior to the consummation thereof. Notwithstanding the foregoing, the Company may at any time withdraw any election made under this paragraph.

The Indenture will provide that (a) references to sections of, or rules or regulations under, the Securities Act, the Exchange Act or the TIA shall be deemed to include substitute, replacement or successor sections, rules or regulations, as the case may be, promulgated by the SEC from time to time and (b) references to accounting standards, codifications or pronouncements shall be deemed to include any substitute, replacement or successor accounting standards, codifications or pronouncements promulgated by the FASB or any other recognized accounting authority in the United States of America, except, in each case, as otherwise set forth in the definitions of Change of Control, Consolidated Fixed Charge Coverage Ratio, GAAP and Significant Subsidiary or any other provision of the Indenture which expressly provides that a law, rule or regulation, or any accounting standard, codification or pronouncement, shall be the law, rule, regulation, standard, codification or pronouncement, as applicable, as in effect on the Issue Date or other specified date and except as the context otherwise requires.

Book-entry, delivery and form

Except as set forth below, the Notes will be issued in registered, global form without interest coupons in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof. Notes offered and sold to QIBs ("Rule 144A Notes") will initially be represented by one or more Notes in registered, global form without interest coupons ("Rule 144A Global Notes"). Notes offered and sold in offshore transactions in reliance on Regulation S ("Regulation S Notes") will initially be represented by one or more Notes in registered, global form without interest coupons ("Regulation S Global Notes" and, together with the Rule 144A Global Notes, "Global Notes"). The Global Notes will be deposited upon issuance with the Trustee, as custodian for DTC and registered in the name of DTC or its nominee, in each case for credit to the accounts of direct participants in DTC as described below. Through and including the 40th day after the later of the commencement of this offering and the closing of this offering (such period through and including such 40th day, the "Restricted Period") beneficial interests in Regulation S Global Notes may be held only through Clearstream and Euroclear (as participants in DTC), and may not be offered or sold in the United States (within the meaning of Regulation S) or to or for the account or benefit of a U.S. person (within the meaning of Regulation S), except to a person that takes delivery through a Rule 144A Global Note in accordance with the certification requirements described below or otherwise in accordance with Regulation S. Beneficial interests in Rule 144A Global Notes may not be exchanged for beneficial interests in the Regulation S Global Notes at any time except in the circumstances described below. See "—Exchanges Between Regulation S Notes and Rule 144A Notes." Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to DTC, or another nominee of DTC or to a successor of DTC or its nominee. Except in the limited circumstances described below, owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of Certificated Notes (as defined below). See "—Exchange of Book-Entry Notes for Certificated Notes." Rule 144A Notes and Regulation S Notes (including beneficial interests in the Rule 144A Global Notes and Regulation S Global Notes) will be subject to certain restrictions on transfer and will bear the applicable restrictive legend set forth under "Transfer Restrictions." In addition, transfers of beneficial interests in the Global Notes will be subject to the applicable rules and procedures of DTC and its direct or indirect participants (including, if applicable, those of Clearstream and Euroclear), which may change from time to time.

Initially, the Trustee will act as paying agent and registrar for the Notes. The Notes may be presented for registration of transfer and exchange at the offices of the registrar.

Certain procedures

The following description of the operations and procedures of DTC, Euroclear and Clearstream are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes by them from time to time. We take no responsibility for these operations and procedures and urge investors to contact the systems or their participants directly to discuss these matters.

DTC has advised us that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the "Participants") and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the "Indirect Participants"). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through Participants or Indirect Participants.

DTC has also advised us that, pursuant to procedures established by it, ownership of interests in the Global Notes will be shown on, and the transfer of ownership thereof will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Notes).

Investors in the Rule 144A Global Notes may hold their interests therein directly through DTC, if they are Participants in such system, or indirectly through organizations (including Euroclear and Clearstream) which are Participants or Indirect Participants in such system. Investors in the Regulation S Global Notes must initially hold their interests therein through Euroclear or Clearstream, if they are participants in such system, or indirectly through organizations that are participants in such system. After the expiration of the Restricted Period (but not earlier), investors may also hold interests in the Regulation S Global Notes through Participants in the DTC system other than Euroclear and Clearstream. Each of Euroclear and Clearstream will hold interests in the Regulation S Global Notes on behalf of its participants through customers' securities accounts in its name on the books of its depositary. All interests in a Global Note, including those held through Euroclear or Clearstream, will be subject to the procedures and requirements of DTC. Those interests held through Euroclear or Clearstream will also be subject to the procedures and requirements of such system. The laws of some states require, and the laws of other jurisdictions may require, that certain persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such persons will be limited to that extent. Because DTC can act only on behalf of Participants, which in turn act on behalf of Indirect Participants, the ability of a person having beneficial interests in a Global Note to pledge such interests to persons or entities that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

Except as described below, owners of interests in the Global Notes will not have Notes registered in their names, will not receive physical delivery of Certificated Notes and will not be considered the registered owners or "holders" thereof under the Indenture for any purpose.

Payments in respect of the principal of, premium, if any, and interest on a Global Note registered in the name of DTC or its nominee will be payable to DTC or its nominee in its capacity as the registered holder under the Indenture. Under the terms of the Indenture, we and the Trustee will treat the persons in whose names the Notes, including the Global Notes, are registered as the owners thereof for the purpose of receiving such payments and for any and all other purposes whatsoever. Consequently, neither we, the Trustee nor any of our or the Trustee's agents has or will have any responsibility or liability for (1) any aspect of DTC's records or any Participant's or Indirect Participant's records relating to or payments made on account of beneficial ownership interest in any Global Notes, or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in any Global Notes or (2) any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants. DTC has advised us that its current practice, upon receipt of any payment in respect of securities such as the Notes (including principal and interest), is to credit the accounts of the relevant Participants with the payment on the payment date, in amounts proportionate to their respective holdings in the principal amount of the relevant security as shown on the records of DTC. Payments by Participants and Indirect Participants to the beneficial owners of Global Notes will be governed by standing instructions and customary practices and will be the responsibility of Participants or Indirect Participants and will not be the responsibility of DTC, the Trustee or us. Neither we nor the Trustee will be liable for any delay by DTC or any of its Participants or Indirect Participants in identifying or remitting payments to the beneficial owners of the Notes, and we and the Trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Except for trades involving only Euroclear and Clearstream participants, interests in the Global Notes are expected to be eligible to trade in DTC's Same-Day Funds Settlement System and secondary market trading activity in such interests will, therefore, settle in immediately available funds, subject in all cases to the rules and procedures of DTC and its Participants. See "—Same-Day Settlement and Payment." Subject to the transfer restrictions set forth under "Transfer Restrictions," transfers between Participants in DTC will be effected in accordance with DTC's procedures, and will be settled in same-day funds, and transfers between participants in Euroclear and Clearstream will be effected in the ordinary way in accordance with their respective rules and operating procedures.

Subject to compliance with the transfer restrictions applicable to the Notes described under "Transfer Restrictions," crossmarket transfers between Participants in DTC, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC's rules on behalf of Euroclear or Clearstream by their respective depositaries; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels time) of such system. Euroclear or Clearstream will, if the transaction meets its settlement requirements, deliver instructions to its respective depositary to take action to effect final settlement on its behalf by delivering or receiving interests in the relevant Global Note in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear and Clearstream participants may not deliver instructions directly to the respective depositaries for Euroclear or Clearstream.

DTC has advised us that it will take any action permitted to be taken by a holder of Notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the Global Notes as to which such Participant or Participants has or have given such direction. However, if an Event of Default (as defined in "Description of the Notes") with respect to the Notes has occurred and is continuing, DTC reserves the right to exchange the Global Notes for Certificated Notes (which will bear the applicable restrictive legend referred to in "Transfer Restrictions," unless we determine otherwise), and to distribute such Certificated Notes to its Participants.

DTC, Euroclear and Clearstream are under no obligation to perform or continue to perform the foregoing procedures to facilitate transfers of interests in the Regulation S Global Notes and in the Rule 144A Global Notes among their respective participants, and such procedures may be discontinued at any time. Neither we nor the Trustee nor any of our or their respective agents will have any responsibility for the performance by DTC, Euroclear or Clearstream or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

Exchange of book-entry notes for certificated notes

A Global Note will be exchangeable for Notes in registered certificated form without coupons ("Certificated Notes") if (1) DTC notifies us that it is unwilling or unable to continue as depositary for the Global Notes or ceases to be a clearing agency registered under the Exchange Act (if such registration is required by applicable law) and we do not appoint a successor depositary for the Notes within 90 days after we receive such notification or we become aware that DTC has ceased to be so registered, as the case may be, (2) we, at our option and subject to DTC procedures, notify the Trustee in writing that we elect to cause the issuance of Certificated Notes or (3) there shall have occurred and be continuing an Event of Default. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any authorized denominations, requested by or on behalf of DTC (in

accordance with its customary procedures) and will bear the applicable restrictive legend referred to in "Transfer Restrictions," unless we determine otherwise.

Exchanges between Regulation S Notes and Rule 144A Notes

Prior to the expiration of the Restricted Period, beneficial interests in a Regulation S Global Note may be exchanged for beneficial interests in the Rule 144A Global Note only if such exchange occurs in connection with a transfer of beneficial interests in such Regulation S Global Note pursuant to Rule 144A and the transferor first delivers to the Trustee a written certificate (in the form provided in the Indenture) to the effect that the Notes are being transferred to a person who the transferor reasonably believes to be a QIB, purchasing for its own account or the account of a QIB in a transaction meeting the requirements of Rule 144A and in accordance with all applicable securities laws of the states of the United States and other jurisdictions. Beneficial interests in a Rule 144A Global Note may be transferred to a person who takes delivery in the form of an interest in the Regulation S Global Note, whether before or after the expiration of the Restricted Period, only if the transferor first delivers to the Trustee a written certificate (in the form provided in the Indenture) to the effect that such transfer is being made in accordance with Rule 903 or 904 of Regulation S or Rule 144 (if available) and, if such transfer occurs prior to the expiration of such Restricted Period, that the interest transferred will be held immediately thereafter through Euroclear or Clearstream.

Transfers involving an exchange of a beneficial interest in the Regulation S Global Note for a beneficial interest in a Rule 144A Global Note or vice versa will be effected in DTC by means of an instruction originated by the Trustee under the Indenture through the DTC Deposit/ Withdraw at Custodian system. Accordingly, in connection with any such transfer, appropriate adjustments will be made to reflect a decrease in the principal amount of the Regulation S Global Note and a corresponding increase in the principal amount of the Rule 144A Global Note or vice versa, as applicable. Any beneficial interest in one of the Global Notes that is transferred to a person who takes delivery in the form of an interest in the other Global Note will, upon transfer, cease to be an interest in such Global Note and will become an interest in the other Global Note and, accordingly, will thereafter be subject to all transfer restrictions and other procedures applicable to beneficial interests in such other Global Note for so long as it remains such an interest. The policies and practices of DTC may prohibit transfers of beneficial interests in the Regulation S Global Note prior to the expiration of the Restricted Period.

Same-day settlement and payment

Payments in respect of the Notes represented by Global Notes (including principal and interest) will be made by wire transfer of immediately available funds to DTC or its nominee, as the registered holder of the Global Notes. In the event that Certificated Notes are issued under the limited circumstances described above, we will pay the principal and premium, if any, on, and may pay interest on, the Certificated Notes at the office or agency maintained by us for such purpose in the United States of America, which initially shall be an office of the Trustee, upon surrender of such Certificated Note at such office or agency. Interest on any Certificated Notes may also be paid, at our option, by check mailed to the addresses of the registered holders entitled thereto or by wire transfer to accounts in the United States of America specified by such holders. The Notes represented by Global Notes are expected to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in the Notes will, therefore, be required by DTC to be settled in immediately available funds.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a Global Note from a Participant in DTC will be credited, and any such crediting will be reported to the relevant Euroclear or Clearstream participant, during the securities

settlement processing day (which must be a business day for Euroclear or Clearstream) immediately following the settlement date of DTC. Cash received in Euroclear or Clearstream as a result of sales of interests in a Global Note by or through a Euroclear or Clearstream participant to a Participant in DTC will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC's settlement date.

Material United States federal income tax considerations

The following summarizes certain material United States federal income tax consequences expected to result from the purchase at the issue price (the first price at which a substantial amount of Notes is sold to purchasers other than bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers), ownership and disposition of Notes by holders acquiring Notes at original issue for cash pursuant to this offering.

This discussion is based on:

- the Code;
- current, temporary and proposed Treasury regulations promulgated under the Code;
- the legislative history of the Code;
- current administrative interpretations and practices of the IRS; and
- court decisions;

all as of the date of this offering memorandum. In addition, the administrative interpretations and practices of the IRS include its practices and policies as expressed in private letter rulings that are not binding on the IRS, except with respect to the particular taxpayers who requested and received those rulings. Future legislation, Treasury regulations, administrative interpretations and practices and/or court decisions may adversely affect the tax considerations contained in this discussion. Any change could apply retroactively to transactions preceding the date of the change. The tax considerations contained in this discussion may be challenged by the IRS, and we have not requested, and do not plan to request, any rulings from the IRS concerning the Notes.

The tax treatment of a holder of the Notes may vary depending upon a holder's particular situation. Certain holders (including, but not limited to, certain financial institutions, insurance companies, broker-dealers, persons who mark-to-market the Notes, an accrual method taxpayer subject to special tax accounting rules as a result of its use of financial statements, tax-exempt organizations, regulated investment companies, real estate investment trusts, U.S. Holders (as defined below) whose functional currency for tax purposes is not the U.S. dollar, expatriates and persons holding Notes as part of a "straddle," "hedge" or "conversion transaction") may be subject to special rules not discussed below. This discussion is limited to holders who will hold the Notes as "capital assets" (generally, property held for investment) within the meaning of Section 1221 of the Code.

YOU SHOULD CONSULT YOUR TAX ADVISOR AS TO THE PARTICULAR TAX CONSEQUENCES OF YOUR PURCHASE, OWNERSHIP AND DISPOSITION OF THE NOTES.

As used herein, the term "U.S. Holder" means a beneficial owner of Notes that is for United States federal income tax purposes (1) a citizen or resident of the United States, (2) a corporation, including for this purpose an entity treated as a corporation for United States federal income tax purposes, created or organized in or under the laws of the United States or of any political subdivision thereof, (3) an estate whose income is subject to United States federal income tax regardless of its source, or (4) a trust, if both (a) a court within the United States is able to exercise primary supervision over the administration of the trust and (b) one or more United States persons have the authority to control all substantial decisions of the trust. Notwithstanding the preceding sentence, to the extent provided in Treasury regulations, certain trusts that are beneficial holders of the Notes and in existence on August 20, 1996, and treated as United States persons prior to such date, that elect to continue to be treated as United States persons also will be U.S. Holders. As used herein, the term "Non-U.S. Holder" means a beneficial owner (other than an entity or arrangement treated as a partnership for United States federal income tax purposes) of Notes that is not a U.S. Holder.

If a partnership (including for this purpose any entity or arrangement treated as a partnership for United States federal income tax purposes) holds Notes, the treatment of a partner in the partnership will generally depend on the status of the partner and activities of the partnership. A holder that is a partnership and partners in such partnership should consult their tax advisors regarding the United States federal income tax consequences of purchasing, owning and disposing of the Notes.

Characterization of the notes held by REITs

Debt instruments of "publicly offered REITs" constitute "real estate assets" within the meaning of Section 856(c)(5)(B) of the Code. We are, and expect we will continue to be, a "publicly offered REIT." Therefore, for so long as we continue to be a "publicly offered REIT," Notes held by a REIT will constitute "real estate assets" within the meaning of Section 856(c)(5)(B) of the Code. However, in order for a REIT to retain its qualification as a REIT, at the close of each quarter of its taxable year, not more than 25% of the value of the total assets of such REIT may be represented by debt instruments of "publicly offered REITs" that are not secured by real property.

U.S. holders

Interest

Stated interest on the Notes will be included in the income of a U.S. Holder as ordinary income at the time such interest is received or accrued, in accordance with the U.S. Holder's regular method of tax accounting.

Original issue discount

The Notes will be issued at a price that comes within the *de minimis* exception to the original issue discount ("OID") provisions of the Code, and, accordingly, U.S. Holders will not be subject to the OID provisions with respect to the Notes.

Sale, retirement, redemption or other taxable disposition

In general, a U.S. Holder of the Notes will recognize gain or loss upon the sale, retirement, redemption or other taxable disposition of such Notes in an amount equal to the difference between (1) the amount of cash (including any "make-whole" premium in the event of a redemption requiring its payment) and the fair market value of property received in exchange therefor (except to the extent attributable to the payment of accrued and unpaid interest, as described below) and (2) the U.S. Holder's adjusted tax basis in such Notes. A U.S. Holder's tax basis in the Notes generally will be equal to the price paid for such Notes. The portion of any proceeds that is attributable to accrued and unpaid interest will not be taken into account in computing the U.S. Holder's capital gain or loss, but will instead be treated as interest income to the extent not previously included in income, as described under "—Interest" above.

Capital gain recognized by a non-corporate U.S. Holder from the sale of a capital asset that has been held for more than 12 months is currently subject to United States federal income tax at reduced rates. Capital gain from the sale of an asset held for 12 months or less will be subject to United States federal income tax at ordinary income tax rates. In addition, capital gain recognized by a corporate taxpayer will continue to be subject to United States federal income tax at the ordinary income tax rates applicable to corporations. The ability to deduct capital losses is subject to limitations under the Code.

Additional tax on investment income

A U.S. Holder that is an individual, estate or trust that does not fall into a special class of trusts that is exempt from such tax is subject to a 3.8% tax on the lesser of (1) the U.S. Holder's "net

investment income" for the relevant taxable year and (2) the excess of the U.S. Holder's modified adjusted gross income for the taxable year over a certain threshold. A U.S. Holder's net investment income will generally include its interest income on the Notes and net gain from the disposition of the Notes, unless such interest income and net gain is derived in the ordinary course of the conduct of a trade or business (other than a trade or business that consists of certain passive or trading activities). Net investment income may, however, be reduced by properly allocable deductions to such income. U.S. Holders that are individuals, estates or trusts are urged to consult their tax advisors regarding the applicability of this 3.8% Medicare tax to their income and gains from the Notes.

Non-U.S. holders

Interest

A Non-U.S. Holder generally will not be subject to United States federal income or withholding tax on payments of interest on the Notes, unless that Non-U.S. Holder actually or constructively owns 10% or more of the total combined voting power of all classes of our stock that are entitled to vote within the meaning of Section 871(h)(3) of the Code, is a controlled foreign corporation related to us or is a bank receiving interest described in Section 881(c)(3)(A) of the Code, and provided that such interest is not effectively connected with the conduct of a trade or business in the United States by the Non-U.S. Holder. To qualify for the exemption from taxation, the last United States payor, as defined in the Treasury regulations (or a non-U.S. payor who is a qualified intermediary or withholding foreign partnership) in the chain of payment prior to payment to a Non-U.S. Holder (the "Withholding Agent"), must have received, before payment, a statement that (1) is signed by the beneficial owner of the Notes under penalties of perjury, (2) certifies that such owner is not a U.S. Holder and (3) provides the name and address of the beneficial owner. The statement may be made on an IRS Form W-8BEN or IRS Form W-8BEN-E or a substantially similar form. An IRS Form W-8BEN or IRS Form W-8BEN-E is generally effective for the year of signature plus the following three calendar years; however, the beneficial owner must inform the Withholding Agent of any change in the information on the statement within 30 days of such change. Notwithstanding the preceding sentence, an IRS Form W-8BEN or IRS Form W-8BEN-E may in certain circumstances remain effective until a change in circumstances makes any information on such form inaccurate. If the Notes are held through a securities clearing organization or certain other financial institution, the beneficial owner must provide to such organization or institution an IRS Form W-8BEN or IRS Form W-8BEN-E and the organization or institution must provide a certificate stating that such organization or institution has been provided with a valid IRS Form W-8BEN or IRS Form W-8BEN-E to the Withholding Agent.

A Non-U.S. Holder that does not qualify for exemption from withholding as described in the preceding paragraph generally will be subject to withholding of United States federal income tax at a tax rate of 30% (or lower applicable treaty rate) on payments of interest on the Notes.

Sale, retirement, redemption or other taxable disposition

A Non-U.S. Holder will generally not be subject to United States federal income or withholding tax on any amount which constitutes gain upon the sale, retirement, redemption or other taxable disposition of the Notes, provided (1) the gain is not effectively connected with the conduct of a trade or business in the United States by the Non-U.S. Holder and (2) in the case of an individual Non-U.S. Holder, such holder is not present in the United States for 183 days or more in the taxable year. Certain other exceptions may be applicable and a Non-U.S. Holder should consult its tax advisor in this regard.

If a Non-U.S. Holder is an individual that is present in the United States for 183 days or more in a taxable year and certain other conditions are met, such holder will generally be subject to a flat

30% tax (subject to reductions under an applicable income tax treaty if the Non-U.S. Holder is eligible for the benefits of such treaty) on the gain derived from the sale, redemption or other taxable disposition in such taxable year, which may be offset by U.S. source capital losses, even though such holder is not considered a resident of the United States. The portion of any proceeds that is attributable to accrued and unpaid interest will not be taken into account in computing the Non-U.S. Holder's capital gain or loss, but will instead be treated as interest income, as described under "—Interest" above.

To the extent that gain or interest income with respect to the Notes is not exempt from the United States federal income or withholding tax, a Non-U.S. Holder may be able to reduce or eliminate such tax under an applicable income tax treaty.

Conduct of a United States trade or business

A Non-U.S. Holder whose gain or interest income with respect to the Notes is effectively connected with the conduct of a trade or business in the United States by such Non-U.S. Holder (and if certain tax treaties apply, is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States) will not be subject to the United States federal withholding tax if such Non U.S. Holder provides an IRS Form W-8ECI to the Withholding Agent. Instead, such Non-U.S. Holder will generally be subject to tax on such gain and interest income at regular income tax rates in the manner similar to the taxation of U.S. Holders. In addition, a corporate Non-U.S. Holder will be subject to a branch profits tax equal to 30% of its "dividend equivalent amount" (generally representing the amount that remains after paying the tax on such gain or interest income discussed in the preceding sentence), although a Non-U.S. Holder may be able to reduce or eliminate such tax under an applicable income tax treaty.

Information reporting and backup withholding

Generally, we must report annually to the IRS and to Non-U.S. Holders the amount of interest paid to Non-U.S. Holders and the amount of tax, if any, withheld with respect to those payments. Copies of the information returns reporting such interest and withholding may also be made available to the tax authorities in the country in which a Non-U.S. Holder resides under the provisions of an applicable income tax treaty.

Backup withholding of United States federal income tax may apply to payments made in respect of the Notes to registered owners who are not "exempt recipients" and who fail to provide certain identifying information (such as the registered owner's taxpayer identification number) on an IRS Form W-8BEN or IRS Form W-8BEN-E, in the case of a Non-U.S. Holder, or an IRS Form W-9, in the case of a U.S. Holder. Compliance with the identification procedures described in the preceding section generally would establish an exemption from backup withholding for Non-U.S. Holders. As discussed above, a Non-U.S. Holder whose gain or interest income with respect to the Notes is effectively connected with the conduct of a trade or business in the United States by such Non-U.S. Holder will generally not be subject to backup withholding if the Non-U.S. Holder provides the Withholding Agent with an IRS Form W-8ECI.

In addition, upon the sale of the Notes to (or through) a broker, the broker may be required to withhold an appropriate percentage of the entire purchase price, unless the seller provides, in the required manner, certain identifying information and, in the case of a Non-U.S. Holder, certifies that such seller is a Non-U.S. Holder (and certain other conditions are met). Such a sale may also be reported by the broker to the IRS (which report must, in certain circumstances, include the adjusted basis of the Notes), unless the seller certifies its Non-U.S. Holder status (and certain conditions are met). Certification of the registered owner's Non-U.S. Holder status would be made normally on an IRS Form W-8BEN or IRS Form W-8BEN-E under penalties of perjury, although in certain cases it may be possible to submit other documentary evidence.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or a credit against such beneficial owner's United States federal income tax liability provided the required information is furnished to the IRS in a timely manner.

Potential application of rules governing contingent payment debt instruments

We may be obligated to pay amounts in excess of the stated interest or principal on the Notes, including as described under "Description of the Notes—Change of Control" and "—Optional Redemption." The potential obligation to pay these additional amounts may implicate the provisions of applicable Treasury regulations relating to "contingent payment debt instruments."

Although the matter is not free from doubt, we do not intend to treat the Notes as contingent payment debt instruments. However, there is no assurance that our position would be respected by the IRS or, if challenged, upheld by a court. If the IRS were to challenge our position, the Notes may constitute contingent payment debt instruments. If the Notes are treated as contingent payment debt instruments, a holder that is subject to United States federal income tax may be required to accrue OID on the Notes in excess of stated interest and otherwise applicable OID, and to treat as ordinary income (rather than capital gain) any gain that is recognized upon a sale, redemption or other taxable disposition of the Notes. In the event that any of these contingencies were to occur, it would affect the character, amount and timing of any income recognized. The discussions above under "—U.S. Holders" and "—Non-U.S. Holders" assume that the Notes will not be treated as contingent payment debt instruments. Holders should consult their own tax advisors regarding the possible application of the contingent payment debt instrument rules to the Notes.

Foreign account tax compliance act

Sections 1471-1474 of the Code and the Treasury regulations thereunder ("FATCA") impose withholding taxes on certain types of payments made to "foreign financial institutions," as specially defined under FATCA, and certain other non-U.S. entities. FATCA imposes a 30% withholding tax on payments of interest on the Notes paid to a foreign financial institution unless the foreign financial institution is deemed to be compliant with FATCA or enters into an agreement with the IRS to, among other things, undertake to identify accounts held by certain U.S. persons or U.S.-owned foreign entities, annually report certain information about such accounts, and withhold 30% on payments to account holders whose actions prevent it from complying with these reporting and other requirements. In addition, FATCA imposes a 30% withholding tax on the same types of payments to a non-financial foreign entity of a certain type unless the entity certifies that it does not have any substantial U.S. owners or furnishes identifying information to the IRS or to the withholding agent regarding each substantial U.S. owner. While withholdable payments would have originally included payments of gross proceeds from the sale or other disposition of the Notes on or after January 1, 2019, recently proposed Treasury regulations provide that such payments of gross proceeds (other than amounts treated as interest) do not constitute withholdable payments. Taxpayers may generally rely on these proposed Treasury regulations until they are revoked or final Treasury regulations are issued. Prospective investors should consult their tax advisors regarding the application of FATCA to the acquisition, ownership or disposition of the Notes.

State and local tax considerations

In addition to the United States federal income tax consequences described in "Material United States Federal Income Tax Considerations," you should consider the state and local income tax consequences of the acquisition, ownership and disposition of the Notes. State and local income tax law may differ substantially from corresponding federal law, and this discussion does not purport to describe any aspect of the income tax laws of any state or locality. You should consult your tax advisor with respect to the various state and local tax consequences of an investment in the Notes.

Transfer restrictions

Because of the following restrictions, you are advised to consult legal counsel prior to purchasing or making any offer, resale, pledge or other transfer of the Notes offered hereby.

The Notes have not been registered for offer or sale under the Securities Act or the securities laws of any other jurisdiction and may not be offered or sold except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and the securities laws of any other applicable jurisdiction. Accordingly, the Notes are being offered and sold only to (a) QIBs purchasing for their own account or for the account of other QIBs in reliance on the exemption from the registration requirements of the Securities Act provided by Rule 144A or (b) non-U.S. persons in offshore transactions in reliance on Regulation S.

Prior to the U.S. Resale Restriction Termination Date (as defined in clause (3) below), each acquirer of a beneficial interest in a Note represented by a Rule 144A Global Note or a Certificated Note issued in exchange for interests in a Rule 144A Global Note under the limited circumstances described under "Book-Entry, Delivery and Form," by its acceptance thereof, will be deemed to have acknowledged, represented to and agreed with the Initial Purchasers and us as follows:

(1) It understands and acknowledges that the Notes have not been registered for offer or sale under the Securities Act or the securities laws of any other jurisdiction, they are being offered for resale in transactions exempt from, or not subject to, the registration requirements of the Securities Act and the securities laws of any other applicable jurisdiction, including sales pursuant to Rule 144A and Regulation S under the Securities Act, and may not be offered, sold or otherwise transferred except in compliance with the registration requirements of the Securities Act and any other applicable securities laws or pursuant to an exemption therefrom or in a transaction not subject thereto and, in each case, in compliance with the conditions for transfer set forth in paragraph (3) and in the Indenture.

(2) It is not an "affiliate" (as defined in Rule 144) of ours and it is a QIB and is aware that any transfer of Notes to it will be made in reliance on Rule 144A and that such acquisition will be for its own account or for the account of another QIB to whom notice has been given that such transfer is being made pursuant to Rule 144A.

(3) It (1) represents that it and any investor account for which it is acquiring Notes is a QIB to whom notice has been given that such transfer is being made pursuant to Rule 144A, (2) agrees to offer, sell, assign, transfer, pledge or otherwise dispose of such Notes or any interest or participation therein, prior to (x) the date which is six months (assuming we satisfy the current public reporting requirements of Rule 144) or one year (if we do not) after the later of the date of original issue of such Notes (or any predecessor thereto) and the last date on which we or any "affiliate" (as defined in Rule 144 under the Securities Act) of ours was the owner of such Notes (or any predecessor thereto) or any such interest or participation or (y) such later date, if any, as may be required by any subsequent change in applicable law (the "U.S. Resale Restriction Termination Date") only (a) to us or any of our subsidiaries, (b) pursuant to a registration statement which is effective under the Securities Act, (c) for so long as such Notes are eligible for resale pursuant to Rule 144A, to a person it reasonably believes is a QIB acquiring such Notes or such interest or participation for its own account or for the account of another QIB to whom notice is given that the transfer is being made in reliance on Rule 144A in a transaction meeting the requirements of Rule 144A, (d) to a non-U.S. person in an offshore transaction within the meaning of, and in compliance with, Regulation S or (e) pursuant to any other available exemption from the registration requirements of the Securities Act, subject to, in each of the foregoing cases, any requirement of law that the disposition of such Notes or such interest or participation be at all times within its or their control, and to compliance with the securities laws of any other applicable jurisdiction and with the procedures specified in the Indenture. The foregoing restrictions on

resale will not apply after the U.S. Resale Restriction Termination Date. Furthermore, (i) if any offer, sale or transfer of a beneficial interest in a Rule 144A Global Note is proposed to be made prior to the U.S. Resale Restriction Termination Date to a person who takes delivery in the form of an interest in a Regulation S Global Note, the transferor shall deliver the applicable certificate for such offer, sale or transfer in the form prescribed in the Indenture, as described under "Book-Entry, Delivery and Form—Exchanges between Regulation S Notes and Rule 144A Notes" and (ii) if any offer, sale or transfer of a Certificated Note bearing the immediately following legend or a substantially similar legend is proposed to be made, such transfer shall be subject to the delivery of such certifications, legal opinions (which will be required in the case of a transfer pursuant to clause (e) above) or other information, as may be required by the Indenture or by the Company. It further acknowledges that each Rule 144A Global Note and each Certificated Note issued in exchange for interests in a Rule 144A Global Note under the limited circumstances described under "Book-Entry, Delivery and Form" will bear the following legend or a legend substantially to the following effect unless such legend is removed in accordance with the Indenture:

"THIS SECURITY (INCLUDING ANY RELATED GUARANTEES) HAS NOT BEEN REGISTERED FOR OFFER OR SALE UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ANY OTHER APPLICABLE JURISDICTION. BY ITS ACCEPTANCE HEREOF, THE HOLDER (1) REPRESENTS THAT IT AND ANY INVESTOR ACCOUNT FOR WHICH IT IS ACQUIRING THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") (A "QUALIFIED INSTITUTIONAL BUYER")) TO WHOM NOTICE HAS BEEN GIVEN THAT SUCH TRANSFER IS BEING MADE PURSUANT TO RULE 144A, (2) AGREES TO OFFER, SELL, ASSIGN, TRANSFER, PLEDGE OR OTHERWISE DISPOSE OF THIS SECURITY OR ANY INTEREST OR PARTICIPATION HEREIN, PRIOR TO (X) THE DATE WHICH IS SIX MONTHS (ASSUMING THE COMPANY (AS DEFINED BELOW) SATISFIES THE CURRENT PUBLIC REPORTING REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT) OR ONE YEAR (IF THE COMPANY DOES NOT) AFTER THE LATER OF THE ORIGINAL ISSUE DATE OF THIS SECURITY (OR ANY PREDECESSOR HERETO) AND THE LAST DATE ON WHICH THE COMPANY OR ANY "AFFILIATE" (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF THIS SECURITY) OR SUCH INTEREST OR PARTICIPATION AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY ANY SUBSEQUENT CHANGE IN APPLICABLE LAW, ONLY (A) TO THE COMPANY OR ANY OF THE COMPANY'S SUBSIDIARIES, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH IS EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THIS SECURITY IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER ACQUIRING THIS SECURITY OR SUCH INTEREST OR PARTICIPATION FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER QUALIFIED INSTITUTIONAL BUYER AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (D) TO A NON-U.S. PERSON IN AN OFFSHORE TRANSACTION WITHIN THE MEANING OF, AND IN COMPLIANCE WITH, REGULATION S UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO, IN EACH OF THE FOREGOING CASES, ANY REQUIREMENT OF LAW THAT THE DISPOSITION OF THIS SECURITY OR SUCH INTEREST OR PARTICIPATION BE AT ALL TIMES WITHIN ITS OR THEIR CONTROL, AND TO COMPLIANCE WITH THE SECURITIES LAWS OF ANY OTHER APPLICABLE JURISDICTION AND WITH THE PROCEDURES SPECIFIED IN THE INDENTURE REFERRED TO BELOW, INCLUDING THE DELIVERY OF ANY CERTIFICATE, OPINION OF COUNSEL OR OTHER INFORMATION THAT MAY BE REQUIRED BY THE

INDENTURE OR THE COMPANY. THIS LEGEND MAY ONLY BE REMOVED AT THE INSTRUCTION OF THE COMPANY TO THE TRUSTEE."

Prior to the expiration of the 40-day "distribution compliance period" within the meaning of Regulation S, each acquirer of a beneficial interest in a Note represented by a Regulation S Global Note or a Certificated Note issued in exchange for interests in a Regulation S Global Note under the limited circumstances described under "Book-Entry, Delivery and Form," by its acceptance thereof, will be deemed to have acknowledged, represented to and agreed with the Initial Purchasers and us as follows:

(1) It understands and acknowledges that the Notes have not been registered for offer or sale under the Securities Act or the securities laws of any other jurisdiction, they are being offered for resale in transactions exempt from, or not subject to, the registration requirements of the Securities Act and the securities laws of any other applicable jurisdiction, including sales pursuant to Rule 144A and Regulation S under the Securities Act, and may not be offered, sold or otherwise transferred except in compliance with the registration requirements of the Securities Act and any other applicable securities laws or pursuant to an exemption therefrom or in a transaction not subject thereto and, in each case, in compliance with the conditions for transfer set forth in paragraph (3) and in the Indenture.

(2) It is not an "affiliate" (as defined in Rule 144) of ours and it is a person that, at the time the buy order for such Note was originated, was outside the United States and was not or is not a U.S. person (and was not and is not purchasing for the account or benefit of a U.S. person) within the meaning of Regulation S.

(3) It acknowledges and agrees that, until the expiration of the 40-day "distribution compliance period" within the meaning of Regulation S, (a) such Note or any interest or participation therein (i) may not be offered, sold, assigned, transferred, pledged or otherwise disposed within the United States (within the meaning of Regulation S) or to, or for the account or benefit of, a U.S. person (within the meaning of Regulation S), except to a person reasonably believed to be a QIB acquiring such Note or such interest or participation for its own account or for the account of another QIB to whom notice is given that the transfer is being made in reliance on Rule 144A in a transaction meeting the requirements of Rule 144A and (ii) except as provided in clause (i) above, may not be offered, sold, assigned, transferred, pledged or disposed of except to a non-U.S. person in an offshore transaction within the meaning of, and in compliance with, Regulation S, and in each case such offer, sale, assignment, transfer, pledge or disposition must comply with the securities laws of any other applicable jurisdiction and with the procedures specified in the Indenture, and (b) interests in a Regulation S Global Note may only be held through Euroclear or Clearstream or their respective direct or indirect participants. Furthermore, (i) if any offer, sale or transfer of a beneficial interest in a Regulation S Global Note is proposed to be made prior to the expiration of such 40-day "distribution compliance period" to a person who takes delivery in the form of an interest in a Rule 144A Global Note, the transferor shall deliver the applicable certificate for such offer, sale or transfer in the form prescribed in the Indenture, as described under

"Book-Entry, Delivery and Form—Exchanges between Regulation S Notes and Rule 144A Notes" and (ii) if any offer, sale or transfer of a Certificated Note bearing the immediately following legend or a substantially similar legend is proposed to be made, such transfer shall be subject to the delivery of such certifications, legal opinions (which will be required in the case of a transfer that is not made to the Company or any of its subsidiaries or pursuant to Rule 144A, Regulation S or an effective registration statement under the Securities Act) or other information, as may be required by the Indenture or by the Company. It further acknowledges that each Regulation S Global Note and each Certificated Note issued in exchange for interests in a Regulation S Global Note under the limited circumstances described under "Book-Entry, Delivery and Form" during

such 40-day "distribution compliance period," will bear the following legend or a legend substantially to the following effect unless such legend is removed in accordance with the Indenture:

"THIS SECURITY (INCLUDING ANY RELATED GUARANTEES) HAS NOT BEEN REGISTERED FOR OFFER OR SALE UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ANY OTHER APPLICABLE JURISDICTION. PRIOR TO THE EXPIRATION OF THE 40-DAY "DISTRIBUTION COMPLIANCE PERIOD" (AS DEFINED IN REGULATION S ("REGULATION S") UNDER THE SECURITIES ACT), THIS SECURITY (INCLUDING ANY RELATED GUARANTEES) OR ANY INTEREST OR PARTICIPATION HEREIN (1) MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF WITHIN THE UNITED STATES (WITHIN THE MEANING OF REGULATION S) OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, A U.S. PERSON (WITHIN THE MEANING OF REGULATION S), EXCEPT TO A PERSON REASONABLY BELIEVED TO BE A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) ACQUIRING THIS SECURITY OR SUCH INTEREST OR PARTICIPATION FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER SUCH QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON SUCH RULE 144A IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT AND (2) EXCEPT AS PROVIDED IN CLAUSE (1) ABOVE, MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR DISPOSED OF EXCEPT TO A NON-U.S. PERSON IN AN OFFSHORE TRANSACTION WITHIN THE MEANING OF, AND IN COMPLIANCE WITH, REGULATION S, AND IN EACH CASE SUCH OFFER, SALE, ASSIGNMENT, TRANSFER, PLEDGE OR DISPOSITION MUST COMPLY WITH THE SECURITIES LAWS OF ANY OTHER APPLICABLE JURISDICTION AND WITH THE PROCEDURES SPECIFIED IN THE INDENTURE REFERRED TO BELOW, INCLUDING THE DELIVERY OF ANY CERTIFICATE, OPINION OF COUNSEL OR OTHER INFORMATION THAT MAY BE REQUIRED BY THE INDENTURE OR THE COMPANY. THIS LEGEND MAY ONLY BE REMOVED AT THE INSTRUCTION OF THE COMPANY TO THE TRUSTEE.

Each acquirer of a Note, by its acceptance thereof, will be deemed to have acknowledged, represented to and agreed with the Initial Purchasers and us as follows:

(1) It acknowledges that (a) none of us, the Initial Purchasers or any person acting on behalf of us or the Initial Purchasers has made any representation, or warranty, express or implied, to it with respect to us, or the offering or sale of any Notes, other than the information included or incorporated by reference in this offering memorandum, upon which it is relying in making its investment decision with respect to the Notes, (b) it has made its own examination of us and made its own assessment, and is capable of making its own assessment, of the merits and risks of investing in the Notes, (c) it has had access to and received such financial and other information concerning us and the Notes as it has deemed necessary in connection with its investment decision, including an opportunity to ask questions of and request information from us and (d) the Initial Purchasers are not making any representation or warranty that the information included or incorporated by reference in this offering memorandum is accurate or complete and are not responsible in any way for such information.

(2) It has sophisticated knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of purchasing the Notes, and it and any investor accounts for which it is acting are each able to bear the economic risks of its or their investment for an indefinite period of time.

(3) It acknowledges that we, the Initial Purchasers and others will rely upon the truth and accuracy of its acknowledgments, representations and agreements and agrees that, if any of its acknowledgments, representations or agreements is no longer accurate, it shall promptly notify us and the Initial Purchasers. If it is acquiring any Notes as a fiduciary or agent for one or more investor accounts, it represents that it has sole investment discretion with respect to each such account and it has full power to make the foregoing acknowledgments, representations and agreements on behalf of each such account.

(4) It agrees that it will deliver to each person to whom it transfers a Note notice of any restrictions on transfer of such Note and will inform such person of its obligation to inform its transferee of such restrictions.

(5) It represents and agrees that either (a) it is not, and no portion of the assets used to acquire or hold such Note or an interest therein constitutes the assets of, an "Employee Benefit Plan" within the meaning of Section 3(42) of ERISA, which is subject to Title I of ERISA, a plan, individual retirement account or other arrangement that is subject to Section 4975 of the Code or any other federal, state, local, Non-U.S. or other laws or regulations that are similar to Title I of ERISA or Section 4975 of the Code (collectively, "Similar Law"), or an entity whose underlying assets are considered to include "Plan Assets" of any such plan, account or arrangement or (b) the acquisition and holding of such Note or any interest therein will not constitute a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or a similar violation under any applicable Similar Laws.

References to "Notes" or "Security" in this "Transfer Restrictions" section include any Guarantees, to the fullest extent applicable.

Plan of distribution

J.P. Morgan Securities LLC is acting as representative of each of the Initial Purchasers named below. Subject to the terms and conditions set forth in a purchase agreement among us and the Initial Purchasers, we have agreed to sell to the Initial Purchasers, and each of the Initial Purchasers has agreed, severally and not jointly, to purchase from us, the principal amount of Notes set forth opposite its name below.

Initial purchasers	Principal amount of notes
J.P. Morgan Securities LLC	$
Barclays Capital Inc.	
BofA Securities, Inc.	
Citigroup Global Markets Inc.	
Credit Suisse Securities (USA) LLC	
Deutsche Bank Securities Inc.	
Goldman Sachs & Co. LLC	
Morgan Stanley & Co. LLC	
Wells Fargo Securities, LLC	
Total	$300,000,000

The Initial Purchasers will purchase all of the Notes sold if any Notes are purchased. If an Initial Purchaser defaults, the purchase agreement provides that the purchase commitments of the non-defaulting Initial Purchasers may be increased or the purchase agreement may be terminated. We have agreed to indemnify the several Initial Purchasers against certain liabilities, including liabilities under the Securities Act, or to contribute to payments the Initial Purchasers may be required to make in respect of those liabilities. The offering of the Notes by the Initial Purchasers is subject to receipt and acceptance, and subject to the Initial Purchasers' right to reject, any order in whole or in part.

Commissions and discounts

The representative has advised us that the Initial Purchasers propose initially to offer the Notes at the offering price set forth on the cover page of this offering memorandum. After the initial offering of the Notes, the offering price or any other term of the offering of the Notes may be changed. The Initial Purchasers may offer and sell Notes through certain of their affiliates.

Notes are not being registered

The Notes have not been registered for offer or sale under the Securities Act or the securities laws of any other jurisdiction. Accordingly, the Notes are subject to restrictions on resale and transfer as described under "Transfer Restrictions." The Initial Purchasers propose to offer the Notes for resale in transactions not requiring registration under the Securities Act or any other applicable securities laws, including sales pursuant to Rule 144A and Regulation S. The Initial Purchasers will not offer or sell any Notes except to persons they reasonably believe to be QIBs or pursuant to offers and sales to non-U.S. persons that occur in offshore transactions within the meaning of Regulation S. In addition, until the expiration of the 40-day distribution compliance period, an offer or sale of Notes within the United States by a dealer (whether or not participating in this offering) may violate the registration requirements of the Securities Act unless the dealer makes the offer or sale in compliance with Rule 144A or another exemption from registration under the Securities Act. Each purchaser of Notes will be deemed to have made acknowledgments, representations and agreements as described under "Transfer Restrictions."

New issue of notes

The Notes are a new issue of securities with no established trading market. We do not intend to apply for listing of the Notes on any national securities exchange or for inclusion of the Notes on any automated dealer quotation system. We have been advised by certain of the Initial Purchasers that they presently intend to make a market in the Notes after completion of the offering. However, they are under no obligation to do so and may discontinue market-making activities at any time without notice. We cannot assure the liquidity of the trading market for the Notes. If an active trading market for the Notes does not develop, the market price and liquidity of the Notes may be adversely affected. If the Notes are traded, they may trade at a discount from their initial offering price, depending on prevailing interest rates, the market for similar securities, our operating performance and financial condition, general economic conditions and other factors.

No sales of similar securities

We have agreed that, for a period of 30 days from the date of this offering memorandum, we will not, without first obtaining the prior written consent of J.P. Morgan Securities LLC, offer, sell, contract to sell or otherwise dispose of any debt securities issued or guaranteed by the Company and having a tenor of more than one year, except for the Notes sold to the Initial Purchasers pursuant to the purchase agreement.

Short positions

In connection with the offering of the Notes, the Initial Purchasers may engage in overallotment, stabilizing transactions and syndicate covering transactions. Overallotment involves sales in excess of the offering size, which creates a short position for the Initial Purchasers. Stabilizing transactions involve bids to purchase the Notes in the open market for the purpose of pegging, fixing or maintaining the price of the Notes. Syndicate covering transactions involve purchases of the Notes in the open market after the distribution has been completed in order to cover short positions. Stabilizing transactions and syndicate covering transactions may have the effect of preventing or retarding a decline in the market price of the Notes or cause the price of the Notes to be higher than it would otherwise be in the absence of those transactions. If the Initial Purchasers engage in stabilizing or syndicate covering transactions, they may discontinue them at any time.

Neither we nor any of the Initial Purchasers make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the Notes. In addition, neither we nor any of the Initial Purchasers make any representation that the representatives will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

Alternative settlement dates

It is expected that delivery of the Notes will be made against payment therefor on or about , 2020, which is the tenth business day following the date hereof (such settlement cycle being referred to as "T+10"). Under Rule 15c6-1 under the Exchange Act, trades in the secondary market generally are required to settle in two business days unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade the Notes on the date of pricing or the next seven succeeding business days will be required, by virtue of the fact that the Notes initially will settle in T+10, to specify an alternative settlement cycle at the time of any such trade to prevent a failed settlement. Purchasers of the Notes who wish to trade the Notes on such date should consult their own advisors.

Other relationships

The Initial Purchasers and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage, lending and other financial and non-financial activities and services. Certain of the Initial Purchasers and their respective affiliates have provided, and may in the future provide, a variety of these services to us and to persons and entities with relationships with us, for which they received or will receive customary fees and expenses, including in connection with this offering.

Pending full allocation of an amount equal to the net proceeds from this offering to Eligible Green and/or Social Projects, we intend to use the net proceeds for the Initial Use of Proceeds, which consists of funding the redemption of the remaining $250 million outstanding principal amount of our February 2021 Senior Notes (assuming the completion of the partial redemption of $250 million outstanding principal amount of our February 2021 Senior Notes on November 2, 2020), and general corporate purposes, which may include the repayment of outstanding indebtedness. To the extent that any of the Initial Purchasers or their affiliates own any of our February 2021 Senior Notes, upon the Initial Use of Proceeds, such Initial Purchasers or affiliates will receive a portion of those net proceeds. See "Use of Proceeds."

In the ordinary course of their various business activities, the Initial Purchasers and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments, including serving as counterparties to certain derivative and hedging arrangements, and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of ours (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with us. The Initial Purchasers and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

If any of the Initial Purchasers or their affiliates has a lending relationship with us, certain of those Initial Purchasers or their affiliates routinely hedge, and certain other of those Initial Purchasers or their affiliates may hedge, their credit exposure to us consistent with their customary risk management policies. Typically, these Initial Purchasers and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in our securities, including potentially the Notes offered hereby. Any such credit default swaps or short positions could adversely affect future trading prices of the Notes offered hereby.

Notices to prospective investors

Prohibition of sales to EEA and United Kingdom retail investors

The Notes may not be offered, sold or otherwise made available to any retail investor in the EEA or in the United Kingdom. For the purposes of this provision:

(a) the expression "retail investor" means a person who is one (or more) of the following:

(i) a retail client as defined in point (11) of Article 4(1) of MiFID II; or

(ii) a customer within the meaning of the Insurance Distribution Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or

(iii) not a qualified investor as defined in the Prospectus Regulation; and

(b) the expression "offer" includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes.

United Kingdom

Any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) in connection with the issue or sale of the Notes may only be communicated or caused to be communicated in circumstances in which Section 21(1) of the FSMA does not apply to Starwood Property Trust, Inc.

All applicable provisions of the FSMA must be complied with in respect to anything done by any person in relation to the Notes in, from or otherwise involving the United Kingdom.

Hong Kong

The Notes have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance or (b) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the Notes has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to the Notes which is or is intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

Singapore

This offering memorandum has not been registered as a prospectus under the Securities and Futures Act, Chapter 289 of Singapore (the "SFA") with the Monetary Authority of Singapore. Accordingly, this offering memorandum and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Notes may not be circulated or distributed, nor may the Notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore, other than (i) to an institutional investor as defined in Section 4A of the SFA (an "Institutional Investor") under Section 274 of the SFA, (ii) to an accredited investor as defined in Section 4A of the SFA (an "Accredited Investor") or other relevant person as defined in Section 275(2) of the SFA (a "Relevant Person"), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275 of the SFA and (where applicable) Regulation 3 of the Securities and Futures (Classes of Investors) Regulations 2018 or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Notes are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an Accredited Investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an Accredited Investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an Accredited Investor, then securities or securities-based derivatives contracts (each as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for six months after that corporation or that trust has acquired the Notes under Section 275 except:

(i) to an Institutional Investor under Section 274 of the SFA or to a Relevant Person, or any person pursuant to Section 275(1A) (in the case of that corporation) or Section 276(4)(i)(B) (in the case of that trust), and in accordance with the conditions specified in Section 275 of the SFA; (ii) where no consideration is given for the transfer; or (iii) by operation of law.

Singapore Securities and Futures Act Product Classification—Solely for the purposes of its obligations pursuant to Sections 309B(1)(a) and 309B(1)(c) of the SFA, the issuer has determined, and hereby notifies all relevant persons (as defined in Section 309A of the SFA) that the Notes are "prescribed capital markets products" (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

Dubai International Financial Centre

This offering memorandum relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority ("DFSA"). This offering memorandum is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with exempt offers. The DFSA has not approved this offering memorandum nor taken steps to verify the information set forth herein and has no responsibility for the offering memorandum. The Notes to which this offering memorandum relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the Notes offered should conduct their own due diligence on the Notes. If you do not understand the contents of this offering memorandum you should consult an authorized financial advisor.

Australia

No placement document, prospectus, product disclosure statement or other disclosure document has been lodged with the Australian Securities and Investments Commission ("ASIC"), in relation to the offering. This offering memorandum does not constitute a prospectus, product disclosure statement or other disclosure document under the Corporations Act 2001 (the "Corporations Act"), and does not purport to include the information required for a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

Any offer in Australia of the Notes may only be made to persons (the "Exempt Investors") who are "sophisticated investors" (within the meaning of section 708(8) of the Corporations Act), "professional investors"(within the meaning of section 708(11) of the Corporations Act) or otherwise pursuant to one or more exemptions contained in section 708 of the Corporations Act so that it is lawful to offer the Notes without disclosure to investors under Chapter 6D of the Corporations Act.

The Notes applied for by Exempt Investors in Australia must not be offered for sale in Australia in the period of 12 months after the date of allotment under the offering, except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act.

This offering memorandum contains general information only and does not take account of the investment objectives, financial situation or particular needs of any particular person. It does not contain any securities recommendations or financial product advice. Before making an investment decision, investors need to consider whether the information in this offering memorandum is appropriate to their needs, objectives and circumstances, and, if necessary, seek expert advice on those matters.

Japan

The Notes have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) and, accordingly, will not be offered or sold, directly or indirectly, in Japan, or for the benefit of any Japanese Person or to others for re-offering or resale, directly or indirectly, in Japan or to any Japanese Person, except in compliance with all applicable laws, regulations and ministerial guidelines promulgated by relevant Japanese governmental or regulatory authorities in effect at the relevant time. For the purposes of this paragraph, "Japanese Person" shall mean any person resident in Japan, including any corporation or other entity organized under the laws of Japan.

Independent registered public accounting firm

The consolidated financial statements and the related financial statement schedules incorporated in this offering memorandum by reference from our Annual Report on Form 10-K and the effectiveness of our internal control over financial reporting have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports, which are incorporated herein by reference.

Legal matters

Certain legal matters will be passed upon for us by Sidley Austin LLP, New York, New York, and, with respect to matters of Maryland law, by McDermott Will & Emery LLP, New York, New York. Certain legal matters in connection with this offering will be passed upon for the Initial Purchasers by Skadden, Arps, Slate, Meagher & Flom LLP, New York, New York.

Where you can find more information

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any of these documents at the New York Stock Exchange's office at 11 Wall Street, New York, New York 10005. Our SEC filings are also available over the Internet at the SEC's website at http://www.sec.gov. In addition, copies of our SEC filings are available free of charge through our website (www.starwoodpropertytrust.com) as soon as reasonably practicable after filing with the SEC. The information contained on our website is not part of, or incorporated by reference into, this offering memorandum.

Incorporation of certain documents by reference

We have elected to incorporate by reference information into this offering memorandum. By incorporating by reference we are disclosing important information to you by referring you to another document we have filed separately with the SEC. Any information referred to in this way is considered part of this offering memorandum from the date we file that document. We incorporate by reference into this offering memorandum the following documents or information filed with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

- our Annual Report on Form 10-K for the year ended December 31, 2019;
- our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020;
- the portions of our Definitive Proxy Statement on Schedule 14A filed on March 20, 2020 that are incorporated by reference in our Annual Report on Form 10-K for the year ended December 31, 2019; and
- our Current Reports on Form 8-K filed on February 12, 2020, March 20, 2020, May 4, 2020 (second filing), August 20, 2020 and October 19, 2020.

All documents that we file (but not those that we furnish) pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act on or after the date of this offering memorandum and prior to the termination of this offering shall be deemed to be incorporated by reference into this offering memorandum and will automatically update and supersede the information in this offering memorandum and any previously filed documents.

We will provide without charge to each person, including any beneficial owner, to whom this offering memorandum is delivered, upon his or her written or oral request, a copy of any or all documents referred to above that have been or may be incorporated by reference into this offering memorandum, excluding exhibits to those documents unless they are specifically incorporated by reference into those documents. Requests for those documents should be directed to us as follows: Starwood Property Trust, Inc., 591 West Putnam Avenue, Greenwich, Connecticut 06830, Attention: Investor Relations, Telephone: (203) 422-7700.


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